TRANSCRIPT OF RECORD

United States Court Of Appeals

TENTH CIRCUIT

Nos. 5678 to 5693,
inclusive

JAY L. JONES, PAUL J. LIVINGSTON, JACK GOTT, LEO BRANTLEY JACKSON, JOHNNY E. COLE, JAMES RICHARD HARP, WILLIAM THOMAS PETERSON, OLIVER B. STEPHENS, JOHN E. McAFEE, T. MARTIN EDWARDS, ELMER LEE OAKLEY, JOHN DAVID HOOD, F. LEE JOHNSON, PAUL DONLEY RUCKER, FRED A. GRIFFING and DON GRAY,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Volume No. I -- Pages 1 - 150

Appeals From The United States District Court
For The Northern District of Oklahoma

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IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Nos. 5678 to 5693

JAY L. JONES et al.,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Statement Of Points Relied Upon On Appeal

Comes now the above named Appellant and states his intention, in his appeal in this matter, to rely upon the following points:

1. The Court erred in overruling Appellant's Motion to Dismiss the Indictment and each of the Counts thereof.

2. The Court erred in permitting the Government to split the single crime, offense or conspiracy attempted to be charged into two separate and distinct Counts and purported offenses; and in overruling Appellant's Motion to require the Government to proceed with the trial of a single Count by electing upon which one of the two separate Counts it intended to proceed.

3. The Court erred in overruling Appellant's Motions for Acquittal made at the conclusion of the Government's case and at the conclusion of all the evidence, both sides having rested.

4. The misconduct of the United States Attorney, in his planned, deliberate, knowing introduction of the evidence and testimony of the many witnesses dealing with gambling, prostitution, and separate, distinct, and unrelated substantive offenses and alleged conspiracies, over objection by defendants, upon the repeated statements and promises of the United States Attorney that the evidence, admittedly then incompetent and immaterial, "would be connected up", when the United States Attorney knew,

by reason of his thorough investigation and the interviewing of all of the witnesses before the Grand Jury, just concluded, that said testimony was in fact and in law incompetent and highly prejudicial, and could not be and would not be "connected up" with the conspiracy charged, followed by the failure of the United States Attorney to "connect up" the said testimony, constituted such virulent prejudice as to invalidate the trial proceedings, and caused defendants to be deprived of a fair and impartial trial and of due process of law.

5. The Court erred in overruling the Motions of defendants to exclude all testimony of all witnesses dealing with prostitution, gambling and defalcations, if any, involving defendant Wells, the admission of which was, as a matter of fact and as a matter of law, wholly immaterial and irrelevant to the conspiracy charged, and was fundamentally so inflammatory and prejudicial as to deprive Appellant of a fair trial and of due process of law. Said error was not and could not be cured by the subsequent admonition of the Court to the Jury, long after such erroneous admission, to disregard such evidence.

6. The Court erred in overruling the Motion of defendants to strike all of the testimony of all witnesses dealing with prostitution and gambling, for the reasons above stated.

7. The Court erred in refusing to strike all the evidence relating to prostitution, upon Motion of defendants, interposed at the close of the Government's case dealing with that phase of the case.

8. The Court erred in admitting testimony as to gambling and prostitution by the following witnesses over objections of defendants, properly interposed at time of trial, which admission was prejudicial to Appellant and deprived him of a fair trial: Roy Farley, Cleo Epps, Roy Dale Hines, Harvey Pugh, Carl Harp, Pauline Lambert, Calvin Polk, Janice Gwynn, Velma King, Venice Schaffer, Beverly Cleaver, Shirley Duncan, Joyce Adams, and Pat Knode.

9 The Court erred in overruling the several Motions for Mistrial made by defendants at and during the trial, for the reasons set forth in said Motions, and particularly in overruling the various Motions for Mistrial occasioned by

fundamentally erroneous reception of testimony dealing with prostitution and gambling, which evidence was so inflammatory and highly prejudicial as to deprive Appellant of a fair and impartial trial and of due process of law, especially in light of the Court's final ruling and determination that said evidence was in fact not "connected up" with the offense charged or with defendants.

10. The Court erred in overruling defendants' objections to the prejudicial remarks of the United States Attorney in his opening statement.

11. The Court erred in admonishing counsel for defendants, in the presence of the Jury and as part of the Court's Charge to the Jury, for the failure of counsel to produce testimoney concerning Officers Carter and Bruner.

12. The Court erred in instructing the Jury and commenting on the evidence in connection with its consideration of the testimony of Archie Moore that the defendants wholly failed to rebut the testimony in any manner and that the evidence remained uncontradicted, by reason of which comment the defendants were substantially prejudiced and deprived of a fair trial and of due process of law, as such statement was in fact a comment on the failure of the defendants to take the witness stand in their own defense, in violation of the Constitutional rights of defendants.

13. The Court erred in denying and refusing defendants' Motion and Request for a list of Government witnesses, made prior to trial, and in refusing the request of defendants, made upon voir dire examination, for a list of witnesses which the Government intended to use upon trial for the purpose of permitting defendants to make proper voir dire examination of the Jury panel.

14. The Court erred in refusing defendants' Motion and Request for a list of witnesses to be used by the Government upon trial and in refusing inspection of statements of said witnesses, which statements were previously taken and in the possession of the United States Attorney prior to trial.

15. The Court erred in admitting into evidence testimony of Elmer W. Arms, of the Alcohol and Tobacco Tax Unit, concerning

the amount of tax paid, intoxicating liquor purchased by defendant Don Gray for each month during the year 1956 and for January and February, 1957, and in admitting Government Exhibits 5 - 5f, inclusive, said testimony and evidence being wholly incompetent, irrelevant and immaterial, and extremely prejudicial.

16. The Court erred in permitting James G. Carroll, of the Alcohol and Tobacco Tax Unit, to testify with regard to whether or not defendants, or any of them, had paid any retail or wholesale liquor dealer license taxes during the years 1948, 1950, 1951 and 1952, and in admitting Government Exhibit 8, said exhibit not being claimed to be a complete list of liquor dealers for the City of Tulsa, Tulsa County, or the Northern District of Oklahoma, the evidence not being the best evidence or subject to proper impeachment or cross-examination, and being wholly and completely incompetent and immaterial and highly prejudicial.

17. The Court erred in permitting Charles J. Heinan of the Office of the Director of Internal Revenue for Oklahoma to testify that defendant Don Gray did not have any retail or wholesale liquor dealer stamps in the Northern District of Oklahoma for the reason that said testimony was incompetent, irrelevant and immaterial and was extremely prejudicial.

18. The Court erred in permitting agents Ralph Lashbrook, Ralph Chance, E. S. Gibson and Edwin Burns of the Alcohol and Tobacco Tax Unit to testify concerning any transaction in 1953 at Anderson, Missouri, because such testimony was incompetent, irrelevant and immaterial as to the offense charged in the Indictment and prejudicial to Appellant as tending at most to prove independent disconnected transactions.

19. The Court erred in permitting, over objection, testimony by Glenn Starrett of the Alcohol and Tobacco Tax Unit concerning the arrest of Robert Fawcett on May 14, 1956; the arrest of Lefty Anderson on April 23, 1955; and the stopping of defendant Don Gray with 60 cases of whiskey on November 5, 1956, for the reason that all of such testimony was incompetent, irrelevant and immaterial, as to the offense charged in the Indictment, and was prejudicial to Appellant as tending to prove different and disconnected offenses.

20. The Court erred in permitting Glenn Starrett, over objection, to testify concerning any facts regarding the arrest of Paul Neal on January 11, 1957, for the reason that

said testimony was incompetent, irrelevant and immaterial to the offense charged in the Indictment, and was prejudicial to Appellant as tending to prove an independent and disconnected unlawful act.

21. The Court erred in overruling defendants' objections to the testimony of James Robert Bivens, police officer, as to the amounts of liquor seized by the vice squad of the Police Department of the City of Tulsa, Oklahoma, said evidence being wholly incompetent, irrelevant and immaterial.

22. The Court erred in admitting in evidence, over objection of defendants, the testimony of W. T. Parret, Clerk of the Municipal Criminal Court of Tulsa, Tulsa County, Oklahoma, relative to the number of liquor cases filed in said Court between the dates May 8, 1955, and December 13, 1955, inclusive; May 8, 1956, and December 13, 1956, inclusive; and December 14, 1956, and March 31, 1957, inclusive; and in admitting in evidence, over objection, Government's Exhibits 12 - 12D, inclusive, 13 and 15, being graphs purporting to demonstrate the same facts.

23. The Court erred in permitting the United States Attorney to use, during his argument to the Jury, Government Exhibit 6, which purported to be a chart setting forth monthly purchases of intoxicating liquor by defendant Don Gray, which chart was demonstrative and prejudicial and had not been admitted in evidence.

24. The Court erred in admitting into evidence Government Exhibit 7, which purported to be a partial list of retail liquor dealer tax stamps for the City of Tulsa, said list not being claimed to be a complete list for the City of Tulsa, or for Tulsa County, or for the Northern District of Oklahoma.

25. The Court erred in admitting the testimony of Ralph Chance, over proper objection, concerning the wrapping of liquor by defendant Don Gray in "brown wrapping paper called a lug" and similar testimony as regards said practice, in that no inference or implication may properly be drawn from the fact that liquor sold in the State of Missouri is not wrapped in brown paper or "lugged".

26. The Court erred in admitting the testimony of Cleo Epps, Roy Farley, Dale Hines, Harvey Pugh, Billie Popovich, Carl Harp, Cecil Boone, Harry Miller, Robert Bates, Herschel Mathis, Bill Curlee, Ed DeWeese, Archie Moore, Lee Uto, Bonnie Dodson, Alvin D. Miller, Willie Lawson, James Johnson, Lawrence Hamilton, Bob Brannon, E. C. Carter, John Bill Edwards, Charles Hirrlinger, Ben Bly, E. S. Gibson, Bill Massey, Bob Massey, Dave Massey, Paul Vawter and George Mose, and each of said persons, insofar as their testimony tended in any wise to prove or establish conspiracies independent of and other than the conspiracy charged and prior to the date of inception of the alleged conspiracy on March 30, 1956.

27. The Court erred on the 3rd day of trial, the 18th day of April, 1957, in overruling defendants' Motion to Strike all of the testimony theretofore given by the Government in its case in chief relating to the importation of intoxicating liquor from the State of Missouri into the State of Oklahoma, for the period 1948, 1949, 1950, 1951, up to and including April 5, 1951, for the reason that the Federal Liquor Enforcement Act was not applicable to the State of Oklahoma during said period. The failure and refusal of the Court at that time to sustain the Motion to Strike and disabuse the Jury's minds as to the validity of such testimony was not cured by any instruction at the end of the trial directing the Jury to disregard the testimony given long since past.

28. The Court erred in permitting the witness, E. C. "Red" Carter, upon admitting that he had committed voluntary and deliberate perjury, to be interrogated and to testify as to which time he told the truth, said answer, over proper objection, invading the province of the Jury in the determination of which time the witness testified truthfully and in weighing his credibility.

29. The Court erred in stating to the Jury, at the close of the Government's case, that he was sustaining Motions for Acquittal as to defendants Bulloch, Wells and Williams because there was no evidence as to them, and in further stating in the presence of the Jury that there was sufficient evidence to make a prima facie case against the remaining defendants, such declaration being prejudicial and the term "prima facie" not being defined

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30. The Court erred in submitting the case to the Jury for the reason that as a matter of law and upon all of the competent evidence adduced there was and is a total and fatal variance between the crime charged in the Indictment, to-wit: an alleged conspiracy entered into on or about January 1, 1948, to commit certain offenses against the United States, of which the proof totally failed; and the alleged conspiracy submitted by the Court to the Jury, to-wit: an alleged conspiracy entered into on or about March 30, 1956.

31. The Court erred in submitting the case to the Jury for the reason that there was a fatal variance prejudicial to Appellant between the Indictment and the proof, in that the Indictment charged one overall Conspiracy participated in by twenty defendants, twenty-one co-conspirators, and others unknown, who were not named as defendants, and the proof, if it established anything, which Appellant denies, at most established numerous, separate, distinct and unconnected Conspiracies as to which Appellant was not a party and which were not offenses against the laws of the United States.

32. The Court erred in submitting the case to the Jury as to Appellant because there was a total failure of proof of any participation on the part of Appellant with any persons in the importation of intoxicating liquor into the State of Oklahoma, or into the City of Tulsa, or in a willful failure or refusal to pay Federal license taxes, and a failure of proof of any agreement to effect such purposes or objects

33. The verdict of the Jury is contrary to the weight of the evidence, is contrary to law, is contrary to the Instructions of the Court, is not supported by the evidence, is contradictory and inconsistent on its face, and demonstrates that the Jury was misled and failed to understand the law or instructions of the Court and that the verdict was the result of bias, passion and prejudice.

34. The verdict of the Jury, upon its face and as a matter of law, demonstrates that the Jury returned convictions based upon a finding of the commission of the substantive offenses charged as the objects of the Conspiracy,

and not upon the finding of the Conspiracy charged in the Indictment.

35. The Court erred in failing to instruct the Jury properly with a full and accurate statement of the law of the case and the nature of the offense charged; particularly and prejudicially the Court's charge fails to and does not make clear to the Jury the fact that the offense charged is an agreement to violate certain laws, and not the commission of the substantive offense or offenses.

36. As a matter of law, the competent evidence adduced, together with all inferences reasonably to be drawn therefrom, is as consistent with innocence as with guilt and is legally insufficient to support the verdict of the Jury.

37. The Court erred in charging the Jury as follows:

(a) "One who engages in the business of a wholesale liquor dealer is required by Federal law to pay a special tax. A wholesale dealer is required to file monthly what is known as a form 52-A, showing whom he purchased liquor from, and a form 52-B, showing the names of the persons to whom he sold liquor in wholesale quantities during the previous month."

(b) "The wholesale liquor dealer is defined by law as a person who sells or offers for sale distilled spirits in quantities of five wine gallons or more to the same person at the same time. And if a dealer in liquor accepts an order for five wine gallons or more of distilled spirits, and the order is filled, and delivery is made in parcels of less than five wine gallons, and on different dates, nevertheless a transaction has been made in a wholesale quantity."

(c) "The evidence presented by the Government -- now I come to the exception with reference to this evidence, in the record, prior to March 1956: The evidence presented by the Government pertaining to the importation of liquor from Missouri into Oklahoma during the period from April 5, 1951, to on or about March 1956, the date upon which the defendants are charged with having entered into the unlawful conspiracy, and the evidence pertaining to the carrying

on of a liquor business by some of the defendants during the same period, and wilfully failing to pay the special tax required by Federal law, may properly be considered by you but only for a limited purpose. It may be considered only in connection with the question of intent of the defendants in determining whether the defendants intentionally and wilfully conspired to commit offenses against the United States during the period from about March 1956 to on or about February 21st, 1957."

(d) "You are instructed that the police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation Act or the Internal Revenue laws of the United States. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose of aiding in the enforcement of Federal laws pertaining to the transportation and sale of liquor would not be sufficient to prove a conspiracy upon the part of such officers to violate those laws. But, if such police officers enter into an agreement to aid and assist others in carrying on the liquor business and knowlingly and intentionally co-operate with others in the importation of liquor into Oklahoma in violation of Federal law, or aid and assist others in carrying on the business of either a wholesale or a retail liquor dealer, and wilfully failing to pay the special tax as required by Federal law, then such police officers do commit an offense against the United States."

(e) "The objects of a conspiracy may be numerous. Some may involve violation only of State law and some may even be innocent -- but if one of such objects be to violate a criminal law of the United States, the case falls within the condemnation of the Federal conspiracy statute."

To all of which Instructions proper objections and exceptions were at the time of trial and prior to the retirement of the Jury taken in open Court and the grounds thereof transmitted to the Court.

38. The Court committed basic and fundamental error

in connection with its basic instructions in charging the Jury as follows:

(a) "Where two or more act together to accomplish something unlawful, a conspiracy is shown, even though there be no direct evidence of an express agreement. The agreement is generally a matter of inference, deduced from the acts of the persons accused, done in pursuance of an apparent criminal purpose."

(b) "As you have been heretofore advised by the Court, the evidence presented by the Government is not deemed to be sufficient to meet the required degree of proof that the defendants, or any of them, entered into the alleged conspiracy on or about January 1, 1948. The evidence does not tend to prove the existence of the alleged conspiracy until about March 1956."

(c) "If you find from the evidence by the required degree of proof that the conspiracy alleged in Count 1 was wilfully entered into by the defendants on or about March 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the objects of the conspiracy, and after the inception thereof, then you should find all defendants who were members of the conspiracy guilty as charged in Count 1 of the indictment."

(d) "If you find from the evidence by the required degree of proof that the conspiracy alleged in Count 2 was wilfully entered into by the defendants on or about March 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the conspiracy, and after the inception thereof, then you should find all defendants who were members of the conspiracy guilty as charged in Count 2 of the indictment."

(e) ". . . Each defendant in this case is presumed at the outset to be innocent, and this presumption exists in his favor and abides with him for his proper protection at every stage of the trial until his guilt is established by the evidence beyond a reasonable doubt."

(f) "You are instructed that where it appears that any witness has wilfully testified falsely respecting a material matter the jury may reject his testimony in its entirety, except as it finds corroboration or support in other evidence. . . . "

(g) ". . . As to each defendant on trial you may find him guilty on both counts of the indictment, not guilty on both counts of the indictment, or guilty on one count and not guilty on the other count of the indictment."

39. The Court erred in failing and refusing to charge the Jury as requested by Defendants' Requested Instructions Nos. 1 - 29, inclusive, which were submitted in writing to the Court and objection to said refusal properly made, and which Requested Instructions were not fully covered by other Instructions given by the Court.

40. The ruling of the Court permitting the Government to split a single offense, namely a conspiracy to commit an offense or offenses against the United States, into two separate crimes, or alternatively by permitting the charge in the Indictment and the submission to the Jury to stand on two separate Counts, which the Court submitted as independent crimes, and advising the Jury that a verdict could be returned upon both or either of said Counts, was in fact and in effect the submission to the Jury of a "special verdict" or of "special interrogatories" which is an "innovation in American criminal practice", a departure from established due process of law in criminal cases, substantially affected the rights of Appellant, according to law and the Constitution of the United States of America, and constitutes fatal error and a fundamental denial of due process of law.

41. The Court erred in submitting to the Jury any form of verdict other than "guilty" or "not guilty". The Conspiracy charged was a single and indivisible offense, to which Appellant could enter only one plea of "guilty" or "not guilty" and to which the Jury could, under the law, return only one response.

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42. The Court erred in submitting to the Jury a form of verdict permitting the Jury to return a verdict of "guilty of one-half of the offense charged".

43. The verdict of the Jury on its fact purports to convict Appellant of the commission of one-half of the Conspiracy charged in the Indictment and as a matter of law cannot stand. A defendant in law is and must be either guilty or not guilty of the offense charged. He cannot be half guilty!

44. The verdict of the Jury, purporting to find defendants guilty of one-half of the offense charged in the Indictment and not guilty of one-half of the offense charged is contradictory and inconsistent, and vitiates the verdict as a matter of law, such not being a verdict under the law as guaranteed by the Constitution of the United States and by due process of law.

Dated this 11th day of July, 1957.

Irvine E. Ungerman,
Charles A. Whitebook,
Manuel Grabel,
Maynard I. Ungerman,
William Leiter,
R. James Unruh,
A. L. Shortridge,

By Irvine E. Ungerman
Attorneys for Appellant

Of Counsel: Ungerman, Whitebook, Grabel & Ungerman.

Filed July 30, 1957.

[The statements of points relied upon filed in cases Nos. 5679 to 5693 are identical with the above statement filed in case No. 5678.]

1] IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

Pleas and proceedings before the Honorable Royce H. Savage, Judge of the United States District Court for the Northern District of Oklahoma, presiding in the following entitled cause:

United States of America, Plaintiff

vs.

Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny E. Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, Clifford E. Wells, Nolen Bulloch, John E. McAfee, Theopolis Scoggins, T. Martin Edwards, Elmer Lee Oakley, John David Hood, F. Lee Johnson, Paul Donley Rucker, Fred A. Griffing, Bernard Neil Williams, Don Gray, Defendants.

Case No. 12,999, Criminal

2] I n d i c t m e n t.

Count I.

The Grand Jury Charges:

That from on or about January 1, 1948, to and including on or about February 21, 1957, the defendants, Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny E. Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, Clifford E. Wells, Nolen Bulloch, John E. McAfee, Theopolis Scoggins, T. Martin Edwards, Elmer Lee Oakley, John David Hood, F. Lee Johnson, Paul Donley Rucker, Fred A. Griffing, Bernard Neil Williams, Don Gray, in the Northern Judicial District of Oklahoma and elsewhere did unlawfully, wilfully and knowingly conspire, combine, confederate and agree together and with each other and with Chancie Jones, Jackie Hood, William R. Curlee, Cecil Boone, Frank Fletcher, William Harold Massey,

Cleo Epps, Alvin D. Miller, Charles Hirrlinger, Roy Johnson, Ben Leonard Bly, Charlotte Bradford, Robert Delton Massey, J. D. Pitts, Paul Vawter, Alphonzo Williams, John Bill Edwards, Chalma Weakley, James Clark Warren, Archie Moore and Elmo David Massey, and with other persons whose names are to the Grand Jurors unknown to commit certain offenses against the United States of America to wit to violate Section 1262 of Title 18, United States Code, in the manner and by the means hereinafter set forth:

3] It was a part of the conspiracy that the defendants would wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, United States Code, by importing into Oklahoma assorted tax-paid liquors containing more than 4% of alcohol by volume, which liquors were not accompanied by permits or licenses as required by the laws of the State of Oklahoma, and which liquors were imported into Oklahoma otherwise than in the course of continuous interstate transportation through the State.

In furtherance of and for the purposes of carrying into execution the conspiracy, combination, confederation and agreement, the defendants did and performed the following and other overt acts, to wit:

Overt Acts

1. At Bill's Truck Stop, east of the City of Tulsa, in the Northern Judicial District of Oklahoma, at approximately 7 o'clock in the evening, during a summer month of 1953, the exact date being to the Grand Jurors unknown, Nolen Bulloch engaged in a conversation with Cleo Epps.

2. On or about September 19, 1953, Nolen Bulloch, Archie Moore, Harold Haus and James F. O'Brien engaged in a conversation in an automobile which was parked in the east part of the city of Tulsa, in the Northern Judicial District of Oklahoma.

3. During the fall of 1953, the exact date being to the Grand Jurors unknown, Fred A. Griffing contacted Don Gray at "The Horseshoe Package Store No. 1", Anderson, Missouri, and proposed to procure taxpaid liquors from him in wholesale quantities.

4. During the latter part of March of 1956, the exact date being to the Grand Jurors unknown, in the home of Charles Hirrlinger near Turley, in the Northern Judicial District of Oklahoma, Jay L. Jones, Charles Hirrlinger and John Bill Edwards engaged in a conversation.

4] 5. During the latter part of March, 1956, the exact date being to the Grand Jurors unknown, in the home of Charles Hirrlinger near Turley, in the Northern Judicial District of Oklahoma, Charles Hirrlinger and John Bill Edwards delivered approximately $700.00 to Jay L. Jones.

6. During April of 1956, the exact date being to the Grand Jurors unknown, in the home of Charles Hirrlinger near Turley, in the Northern Judicial District of Oklahoma, Jay L. Jones, Paul J. Livingston, Jack Gott, John E. McAfee, John Bill Edwards and Charles Hirrlinger participated in a conversation.

7. During the latter part of April, 1956, the exact date being to the Grand Jurors unknown, at the home of Charles Hirrlinger near Turley, in the Northern Judicial District of Oklahoma, Jay L. Jones, Paul J. Livingston, Jack Gott, John E. McAfee, Charles Hirrlinger and John Bill Edwards determined the distribution of payments, after expenses, to be received from gamblers, bootleggers and prostitutes as follows: Jay L. Jones, 40%, Paul J. Livingston, 20%, Jack Gott, 20%, Nolen Bulloch, 10%; and the remaining 10% to be divided equally between John E. McAfee, John Bill Edwards and Charles Hirrlinger.

8. During April, 1956, the exact date being to the Grand Jurors unknown, at Tulsa, Oklahoma, in the Northern Judicial District of Oklahoma, Robert Delton Massey delivered $150.00 to William Harold Massey.

9. During May, 1956, the exact date being to the Grand Jurors unknown, in the Northern Judicial District of Oklahoma, Ben Leonard Bly delivered $200.00 to John Bill Edwards.

10. On or about May 10, 1956, James Richard Harp was assigned by Paul J. Livingston to the Vice Squad of the City of Tulsa Police Department, in the Northern Judicial District of Oklahoma.

11. On or about May 10, 1956, Leo Brantley Jackson was assigned by Paul J. Livingston to the Vice Squad of the City of Tulsa Police Department, in the Northern Judicial District of Oklahoma.

12. On or about May 11, 1956, Clifford B. Rodgers was transferred by Jay L. Jones from Police Patrol District 112 to the Police Patrol District 113 in the City of Tulsa, Northern Judicial District of Oklahoma.

5] 13. On or about May 12, 1956, at approximately 2 o'clock in the afternoon of that date, Jack Gott, while in a City of Tulsa police car, within the City of Tulsa, in the Northern Judicial District of Oklahoma, engaged in a conversation with Richard Carter.

14. On or about May 14, 1956, Johnny E. Cole was assigned by Paul J. Livingston to the Vice Squad of the City of Tulsa Police Department, in the Northern Judicial District of Oklahoma.

15. On or about May 15, 1956, Oliver B. Stephens was assigned by Paul J. Livingston to the Vice Squad of the City of Tulsa Police Department, in the Northern Judicial District of Oklahoma.

16. During May, 1956, the exact date being to the Grand Jurors unknown, at Tulsa, in the Northern Judicial District of Oklahoma, William Harold Massey delivered $800.00 to John Bill Edwards.

17. During June, 1956, the exact date being to the Grand Jurors unknown, in the east part of the City of Tulsa, in the Northern Judicial District of Oklahoma, Ben Leonard Bly delivered $200.00 to T. Martin Edwards.

18. On or about July 4, 1956, Robert Hubbard was demoted by Paul J. Livingston from the Detective Bureau of the City of Tulsa Police Department to jailer in the City of Tulsa jail, in the Northern Judicial District of Oklahoma.

19. During the early part of July, 1956, the exact date being to the Grand Jurors unknown, at 3255 South Florence, in the City of Tulsa, Northern Judicial District

of Oklahoma, Charles Hirrlinger and John Bill Edwards delivered money to Jack Gott.

20. During July of 1956, the exact date being to the Grand Jurors unknown, at the home of William Thomas Peterson, Tulsa, in the Northern Judicial District of Oklahoma, Clifford E. Wells engaged in a conversation with William Thomas Peterson.

21. On or about November 15, 1956, Velma "Boots" King delivered to Clifford E. Wells $25.00 at the City of Tulsa Police Station, in the Northern Judicial District of Oklahoma.

6] 22. On or about December 18, 1956, Fred A. Griffing, while driving a 1953 Ford automobile, obtained a quantity of assorted taxpaid liquors from Don Gray at the Airport Liquor Store near Opolis, Kansas, for delivery to T. Martin Edwards, at Tulsa, Oklahoma.

23. During the night of December 25, 1956, at Cain's Dancing Academy, Tulsa, in the Northern Judicial District of Oklahoma, Chancie Jones delivered money to Johnny E. Cole.

24. On or about January 6, 1957, Janice Anchor delivered to Clifford E. Wells $25.00 at the City of Tulsa Police Station, in the Northern Judicial District of Oklahoma.

25. On or about January 13, 1957, Thurman Spybuck was transferred by Paul J. Livingston from the Detective Bureau of the City of Tulsa Police Department to the City of Tulsa dog pound, in the Northern Judicial District of Oklahoma.

26. On or about January 14, 1957, Shirley Myers delivered to Clifford E. Wells $25.00 at the City of Tulsa Police Station, in the Northern Judicial District of Oklahoma.

27. On or about January 15, 1957, Fred A. Griffing, while driving a 1957 Ford automobile, obtained a quantity of assorted taxpaid liquors from Don Gray at the Airport Liquor Store near Opolis, Kansas, for delivery to T. Martin Edwards at Tulsa, Oklahoma.

28. On or about January 29, 1957, Joyce Adams delivered to Clifford E. Wells $25.00 at the City of Tulsa Police Station, in the Northern Judicial District of Oklahoma.

29. On or about January 29, 1957, Jean Ashlock delivered to Clifford E. Wells $25.00 at the City of Tulsa Police Station, in the Northern Judicial District of Oklahoma.

30. On or about February 4, 1957, Shirley Ann Duncan delivered to Clifford E. Wells $25.00 at the City of Tulsa Police Station, in the Northern Judicial District of Oklahoma.

7] Count II (T. 18, U.S.C., Sec. 371)

The Grand Jury Further Charges:

That from on or about January 1, 1948, to and including on or about February 21, 1957, the defendants, Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny E. Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, Clifford E. Wells, Nolen Bulloch, John E. McAfee, Theopolis Scoggins, T. Martin Edwards, Elmer Lee Oakley, John David Hood, F. Lee Johnson, Paul Donley Rucker, Fred A. Griffing, Bernard Neil Williams, Don Gray, in the Northern Judicial District of Oklahoma and elsewhere, did unlawfully, wilfully and knowingly conspire, combine, confederate and agree together and with each other and with Chancie Jones, Jackie Hood, William R. Curlee, Cecil Boone, Frank Fletcher, William Harold Massey, Cleo Epps, Alvin D. Miller, Charles Hirrlinger, Roy Johnson, Ben Leonard Bly, Charlotte Bradford, Robert Delton Massey, J. D. Pitts, Paul Vawter, Alphonzo Williams, John Bill Edwards, Chalma Weakley, James Clark Warren, Archie Moore and Elmo David Massey, and with other persons whose names are to the Grand Jurors unknown, to commit certain offenses against the United States of America, to wit, to violate Section 5691 (Section 3253 prior to January 1, 1955) of Title 26, United States Code, in the manner and by the means hereinafter set forth:

It was a part of the conspiracy that the defendants would carry on the business of wholesale and retail liquor dealers and wilfully fail to pay the special taxes therefor as required by the Internal Revenue Laws of the United States of America, in violation of Section 5691 (Section 3253 prior to January 1, 1955) of Title 26, United States Code.

In furtherance of and for the purposes of carrying into execution the conspiracy, combination, confederation and agreement, the defendants did and performed, among others, the overt acts which are set forth in paragraphs numbered one through thirty, inclusive, of Count I of this indictment, which overt acts are hereby repeated and realleged as therein set forth and are incorporated herein
8] by reference.

A True Bill

B. Hayden Crawford
United States Attorney

Francis (illegible) Brace
Foreman

Filed March 15, 1957.

9] Bill of Particulars

This Bill of Particulars furnished by the United States to the defendants, pursuant to the Order entered March 11, 1957, by the Honorable Royce H. Savage, United States District Judge is as follows:

The approximate dates on or about which the defendants entered into the conspiracy are, to the best of our knowledge, as indicated opposite their names below:

Jay L. Jones	- May 1, 1953
Paul J. Livingston	- January 1, 1948
Jack Gott	- January 1, 1949
Leo Brantley Jackson	- January 1, 1952
Johnny E. Cole	- January 1, 1952
James Richard Harp	- January 1, 1952
William Thomas Peterson	- July 1, 1951
Oliver B. Stephens	- September 1, 1955

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Clifford E. Wells	- January 1, 1948
Nolen Bulloch	- January 1, 1948
John E. McAfee	- July 1, 1955
Theopolis Scoggins	- September 1, 1955
T. Martin Edwards	- January 1, 1948
Elmer Lee Oakley	- January 1, 1948
John David Hood	- January 1, 1948
F. Lee Johnson	- January 1, 1948
Paul Donley Rucker	- January 1, 1948
Fred A. Griffing	- January 1, 1948
Bernard Neil Williams	- March 1, 1954
Don Gray	- January 1, 1948

and these defendants continued to remain in the conspiracy until approximately on or about February 21, 1957.

B. Hayden Crawford
United States Attorney for
the Northern District of
Oklahoma

Filed March 18, 1957

11] Motion for Bill of Particulars.

Come now the Defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, and respectfully show the Court that upon Motion for Bill of Particulars filed in this cause by these defendants and other defendants, and in order to assist this court in the admission of evidence at the time of trial, this court on Monday, March 11, 1957 ordered and directed the Attorney for the United States of America to furnish to the defendants the dates on or about which each of the conspirators entered into the alleged conspiracy, the length of time that each remained therein and the date on or about which each of said conspirators withdrew or abandoned said conspiracy, if any; that said order was entered due to the fact that the acts and statements of alleged non-defendant conspirators are not binding upon these defendants unless and until it is shown that said persons at the time of said acts were in fact members of

the alleged conspiracy; that it is just as vital and necessary to have furnished for an orderly procedure the dates of participation of the non-defendant conspirators as the defendant conspirators and the Attorney for the United States of America, through error or misunderstanding of the Court's order, has failed to comply therewith in this respect

12] Hickman & Hickman
By Frank Hickman
Attorneys for Defendants, Jay L. Jones, Jack Gott and William Thomas Peterson.

Filed March 22, 1957.

13] Motion to Elect

Come now the defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, and respectfully move the court for its order directing the United States of America to elect as to which of the above two Indictments for the same offense now pending against these defendants it desires now to prosecute, and show the Court:

I. Heretofore and on the 21st day of February, 1957, there was returned by the Grand Jury herein an Indictment against these defendants, filed in the United States District Court for the Northern District of Oklahoma, Case No. 12993 Criminal, United States of America, Plaintiff, vs. Jay L. Jones, et al., Defendants, charging these Defendants with the crime of conspiracy to commit certain offenses against the United States, to-wit: to violate Section 1262, Title 18 and Section 5691 of Title 26, United States Code; and that said Indictment is pending in this Court.

II. That heretofore and on the 15th day of March, 1957, there was returned by the Grand Jury herein an Indictment against these defendants, filed in the United
14] States District Court for the Northern District of

Jay L. Jones et al. vs. United States of America

Oklahoma, Case No. 12999 Criminal, United States of America, Plaintiff, vs. Jay L. Jones et al., Defendants, charging these defendants with the same crime of conspiracy to commit certain offenses against the United States, to-wit: to violate Section 1262 of Title 18 and Section 5691 of Title 26, United States Code, and that said Indictment is pending in this court.

III. Defendants show the court that said Indictments are based upon and charge one and the same offense, and that the Overt Acts are identical, but that said Indictments are wholly inconsistent; that these defendants are and should be entitled to one bail and one trial and that they should be, and under the Constitution of the United States, are entitled to be advised of the charges against which they are to be required to defend.

Hickman & Hickman
By Frank Hickman
Attorneys for Defendants, Jay L. Jones, Jack Gott and William Thomas Peterson.

Filed March 22, 1957.

15] Motion of Defendants, Jay L. Jones, Jack Gott and William Thomas Peterson to Dismiss the Indictment

Come now the above named defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, jointly and separately and respectfully move this Honorable Court that the Indictment herein filed as against these defendants be dismissed and quashed in its entirety as against them for the following reasons and upon the following grounds, to-wit:

First

That the Indictment is wholly insufficient to constitute an Indictment or suffer these defendants due

process within the meaning of and as guaranteed by the Fifth and Sixth Amendments to the Constitution of the United States.

Second

That the said Indictment is not sufficient in law to charge these defendants or any of them herein with the commission of any offense against the United States of America or the violation of any law thereof.

Third

That the Indictment does not charge facts sufficient to constitute or charge an offense against the United States or the violation of any law thereof.

Fourth

That the Indictment upon its face purports to charge as a matter of law and as a matter of fact a single conspiracy, which it attempts to split into two separate offenses, set forth in two separate counts, countrary
16] to law.

Fifth

That the Indictment upon its face as a matter of law attempts to charge a single conspiracy which it unlawfully attempts to string out and charge as separate offenses in separate counts.

Sixth

That the Indictment is ambiguous, vague, indefinite, multifarious and is so uncertain as not adequately to inform these defendants of what they stand charged so as to enable them properly to prepare their defense; all in denial of and in violation of the rights of these defendants guaranteed to them by the Sixth Amendment to the Constitution of the United States.

Seventh

That the Indictment returned against these defendants violates the personal rights secured to these defendants by the Constitution of the United States of America, contained in the Bill of Rights thereto, in particular Amendment No. 6, in that this Indictment fails to furnish to these defendants the right "to be informed of the nature and cause of the accusations" made against them, thus depriving them of their Constitutional Rights guaranteed under the Constitution of the United States of America.

Eighth

That on the face of the Indictment Count I alleges that the conspirators conspired "to commit certain offense against the United States". That thereafter and in said count and from the face of said Indictment it is apparent that only a part of said conspiracy is therein charged the said count charging: "It was a part of the conspiracy that the defendants would willfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, U.S. Code."

Ninth

That on the face of the Indictment Count II alleges that the conspirators conspired "To commit certain offenses against the United States." That thereafter and in said Count and from the face of said Indictment it is apparent that only a part of said conspiracy is charged: The said count charging: "It was a part of the conspiracy
17] that the defendants did carry on the business of wholesale and retail liquor dealers and wilfully failed to pay the special taxes therefor . . . in violation of Section 5691 of Title 26, U.S. Code."

Tenth

That a conspiracy to import intoxicating liquor into Oklahoma as attempted to be charged in Count I of the Indictment in violation of Title 18, U.S.C., Section 1262, charges no offense in that Sec. 1262, Title U.S.C. is

unconstitutional and void, being a law of special and not of general application, in violation of the Constitution of the United States of America.

Eleventh

That a conspiracy to import intoxicating liquors into Oklahoma as attempted to be charged in Count I of the Indictment in violation of Title 18, U.S.C., Section 1262, charges no offense in that Section 1262, Title U.S.C. is and at all times was inapplicable and wholly inoperative in respect to the State of Oklahoma in that no Statute of the State of Oklahoma now, or then, was in force and effect, or existing at the time of the commission of the alleged offense prohibiting the importation of all intoxicating liquor into the State so as to permit Title 18, U.S.C., Sec. 1262, to be applicable or effective.

Twelfth

That the Indictment neither sets forth nor charges any overt act on the part of these Defendants which, in fact and as a matter of law, shows any affirmative participation in the object of the conspiracy, or conspiracies, if any, charged.

Thirteenth

That Count I of the Indictment neither sets forth nor charges any overt act on the part of these defendants, which, as a matter of law, could "effect the object of a conspiracy" to import intoxicating liquor into the State of Oklahoma.

Fourteenth

That Count II of the Indictment neither sets forth nor charges any overt act on the part of these defendants which, as a matter of law, could "effect the subject of a conspiracy" to carry on the business of wholesale and retail liquor dealers without the payment of special taxes in violation of the Statutes of the United States of America relating thereto.

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Hickman & Hickman
By Frank Hickman

Filed March 22, 1957.

19] Motion to Elect and Dismiss

Comes now the defendant, Nolen Bulloch, and moves this Honorable Court to require the United States District Attorney to elect upon which count in Criminal Indictment No. 12999 that he is going to proceed to trial on as against the defendant, Nolen Bulloch, and further moves this Honorable Court to require the United States District Attorney to dismiss the other count upon which he is not planning to proceed to trial as against the defendant, Nolen Bulloch.

Rucker, Tabor & Cox
Samuel A. Boorstin
W. C. Henneberry
By (illegible)
Attorneys for Nolen Bulloch

Filed March 22, 1957.

20] Motion to Elect

Comes now the defendant, Nolen Bulloch, and moves this Honorable Court to require the United States District Attorney to elect upon which of the two indictments heretofore returned by the Grand Jury as against the defendant, Nolen Bulloch, to-wit, Criminal No. 12993 and Criminal No. 12999, that he is going to proceed to trial on as against the defendant, Nolen Bulloch.

Rucker, Tabor & Cox
Samuel A. Boorstin
W. C. Henneberry
By (illegible)
Attorneys for Nolen Bulloch

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Filed March 22, 1957.

21] Separate Motion of the Defendant, Nolen Bulloch

Comes now the defendant, Nolen Bulloch, and respectfully moves this Court for its order directing the United States Attorney for the Northern District of Oklahoma and the Clerk of this Court, to furnish to or alternatively to permit the inspection of by the said defendant and his counsel of the record of the minutes and proceedings of the Grand Jury which returned the indictment against him, now pending in this Court, and respectfully shows the Court:

I. It is apparent from the face of the indictment that no overt acts are alleged between the period January 1, 1948 and the summer of 1953; that there are no overt acts alleged between the several acts in the fall of 1953 and March of 1956; that the several overt acts alleged are wholly meaningless in and of themselves and have no apparent materiality or connection with either the object or the purpose of the conspiracy charged in the indictment. That this defendant is from this indictment unable to ascertain and his attorneys are unable to ascertain the charges brought against him and adequately and properly to prepare their defense.

II. That there is a complete failure by the Grand Jury to set forth in the Indictment any objective overt acts, or any other matter upon which its findings and charges are made in regard to a conspiracy to import liquor into the State of Oklahoma and to carry on the business of wholesale and retail liquor dealers without the payment of
22] special taxes thereon. Defendant respectfully shows the Court that in truth and in fact each and every one of the defendants herein, who are known to have been at any time engaged in the business of wholesale or retail liquor dealers have tax stamps as required by the Internal Revenue Laws of the United States of America. That this defendant is wholly without knowledge of the charges to be met; that the indictment and the overt acts charged are ambiguous,

vague, fragmentary and deliberately framed so as not to inform this defendant of the materiality thereof and defendant is denied fundamental due process in connection with the preparation of his defense of this case.

This defendant, upon information and belief, alleges that said indictment was by the Grand Jury returned in violation of the constitutional rights of this defendant and upon a wholly erroneous and fallacious instruction as to the law; that as a matter of law, the evidence, if any, submitted to the Grand Jury and adduced before it in any manner, if true, would not support any indictment nor constitute the commission of any offense against the United States of America; and a conviction, if had, cannot stand.

III. That it is vital and necessary that inspection be ordered and permitted in order to prevent injustice and permit properly to present to the Court defendant's motion to dismiss the indictment for the reason that there was and could be no evidence whatever before the Grand Jury tending to support or supporting the charges of a Federal Offense by this defendant; that said indictment was returned without any evidence of an offense against the United States of America and is null and void.

IV. That for the purpose of the consideration of this motion and for such purpose only, if true, which the defendant denies, the overt acts alleged to have been had, performed by this defendant, as a matter of law constitute the commission of no offense against the United States of America, and as a matter of law could not further the object of the conspiracy purported to be charged.

23] V. This defendant alleges and therefore believes that there were certain documents, statements, papers and recordings introduced into evidence before the Grand Jury and the United States District Attorney has the possession, custody and control of said documents, statements, papers and records. The defendant alleges and therefore believes that said documents, statements, papers and recordings constitute or contain evidence relevant and material to this defendant's defense of this indictment.

VI. This defendant alleges and therefore believes that the United States District Attorney has in his possession, custody and control certain documents, statements, papers and recordings introduced into evidence before the Grand Jury and the United States District Attorney has the possession, custody and control of said documents, statements, papers and recordings. The defendant alleges and therefore believes that many of such documents, statements, papers and recordings were made, given and presented by persons who dislike, hate, and in the past have threatened this defendant "To get even" because of numerous newspaper articles he has written through the years exposing their illegal activities. The defendant alleges and therefore believes that said documents, statements, papers and recordings constitute or contain evidence relevant and material to this defendant's defense of this indictment.

VII. This defendant alleges and therefore believes that the United States District Attorney has in his possession, custody and control the transcript, records and minutes of the Grand Jury starting in April, 1952. This defendant alleges and therefore believes that many of said witnesses, conspirators and co-conspirators that testified before said Grand Jury in April of 1952 also testified before the present Grand Jury concerning the same facts, circumstances and conspiracy. This defendant alleges and thereby believes that said transcript, records and Grand Jury minutes of April 1952 constitute or contain evidence relevant and material to this defendant's defense of this indictment.

24] VIII. It is well to provide secrecy to the proceedings of the Grand Jury; the reasons for such rule are known both to the Court and Counsel.

But this Court will take judicial notice of the terrible seriousness of an indictment by a Federal Grand Jury for an infamous crime. Whether innocent or guilty this defendant must and will stand and forever bear the brand and stigma of the accusation.

If there is no way in which the defendant so charged may require the Courts of the United States of America to inquire into illegal accusations, so as to prevent an indictment, thus obtained, to force this defendant to stand trial, to suffer the burden and expense and the torture and suspense thereof, to face the dangers of perjury and error the possible miscarriage of justice, then the Grand Jury, instead of being that protection of "the citizen against unfounded accusation, whether it comes from government or by-partisan passion, or private enmity", which it was designed by the framers of the Constitution to provide, it becomes instead an instrument of treachery and oppression and a mockery of justice.

IX. It is within the sound discretion of this Court to evaluate the interests of truth and justice and under the circumstances here prevailing to permit the inspection to Counsel. Such inspection will in no manner hamper or prevent the due and proper administration of justice, but may prevent the terrible consequences and injustice of forcing this defendant to stand trial for the commission of acts, which if true, are not within the jurisdiction of and do not constitute the commission of an offense against the United States of America.

Rucker, Tabor & Cox
Samuel A. Boorstin
W. C. Henneberry
By (illegible)
Attorneys for Nolen Bulloch

Filed March 22, 1957.

[The language of the motion of Nolen Bulloch for bill of particulars filed March 22, 1957, is substantially identical with that of the motion of Jay L. Jones et al. for a bill of particulars which appears above.

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28] Motion to Dismiss of John E. McAfee

Comes now the defendant, John E. McAfee, and by leave of Court moves the Court to dismiss the indictment herein upon the following grounds:

I. Said count 1 of the indictment does not state facts sufficient to constitute an offense against the United States.

II. Said count 2 of the indictment does not state facts sufficient to constitute an offense against the United States.

III. Said count 2 of the indictment is indefinate, uncertain and duplicitous to such an extent that said defendant is unable to defend against the charges therein made. Specifically, that the bill of particulars respecting count 2 of the indictment does not direct, inform or connect the defendant with the charge therein made.

29] IV. That said count 2 of the indictment is vague, indefinate and inadequate in that all of the overt acts set forth therein are directed to the furtherence of the purported general conspiracy set forth in count 1 of said indictment and are not connected in any manner to the charges set forth in count 2 of said indictment

V. That said count 2 of the indictment is further fatally defective in that it fails to establish venue of the United States District Court for the Northern District of Oklahoma.

VI. Said count 2 of the indictment being further fatally defective in that it fails to state facts sufficient to invoke the jurisdiction of the United States District Court for the Northern District of Oklahoma.

Elmore A. Page
Attorney for Defendant, John E. McAfee.

Jay L. Jones et al. vs. United States of America

Filed March 22, 1957.

30] Motion of Defendants, Clifford E. Wells, John David Hood, T. Martin Edwards, and F. Lee Johnson, to Dismiss the Indictment in its Entirety.

Come now the defendants, Clifford E. Wells, John David Hood, T. Martin Edwards and F. Lee Johnson, and respectfully move that the indictment filed herein as against these defendants, and each of them, be dismissed and quashed in its entirety as against them, and each of them, for the following reasons, and upon the following grounds, to-wit:

1. That the said indictment is not sufficient in law to charge these defendants, or any of them, with a commission of an offense against the United States of America or the violation of any law thereof.

2. That the indictment does not charge facts sufficient to constitute an offense against the United States of America or the violation of any law thereof.

3. That the indictment is fatally defective in that it charges one distinct offense in two separate counts.

4. That the indictment is duplicitous and charges two or more distinct conspiracies.

5. That the indictment is ambiguous, vague, indefinite, multifarious, and so uncertain as not to adequately inform these defendants of what they stand charged to enable them to properly prepare their defense.

6. That the indictment fails to allege essential elements of the offense, or offenses, attempted to be charged, and is insufficent to enable these defendants to avail themselves of any conviction or acquittal in defense of another prosecution for the same offense or offenses.

7. That this Court is without jurisdiction in that Section 1262, Title 18, U.S.C., is inapplicable with respect to the State of Oklahoma.

8. That Title 37, Oklahoma Statutes, 1951, Sections 50.1 to 50.10, inclusive, if construed to prohibit the importation of all intoxicating liquor into the State, is in direct violation of the constitution of the State
31] of Oklahoma.

Pat Malloy
Attorney for defendants,
Clifford E. Wells,
John David Hood,
T. Martin Edwards,
F. Lee Johnson.

Filed March 22, 1957.

32] Motion of Defendants, Clifford E. Wells, John David Hood, T. Martin Edwards, and F. Lee Johnson, to Force the United States of America to Elect.

Come now the defendants above named, and each of them, and move the Court for an order directing the United States of America, through its attorney, B. Hayden Crawford, to elect to prosecute under and by virtue of Indictment No. 12993 or Indictment No. 12999.

And in the event that the United States of America elects to prosecute under Indictment No. 12999, the defendants above named, and each of them, further move the Court for an order directing the United States of America, through its attorney, B. Hayden Crawford, to elect to prosecute under and by virtue of Count No. 1 or Count No. 2 of Indictment No. 12999.

Pat Malloy, Rooney McInerney and
McNeill & McNeill
By Pat Malloy
Attorneys for defendants,
Clifford E. Wells, John David Hood,
T. Martin Edwards and F. Lee Johnson

Jay L. Jones et al. vs. United States of America

Filed March 22, 1957.

33] Motion of Defendants, Clifford E. Wells, John David Hood, T. Martin Edwards, and F. Lee Johnson, for Supplemental Bill of Particulars.

Come now the defendants, Clifford E. Wells, John David Hood, T. Martin Edwards and F. Lee Johnson, separately, and respectfully move the Court for an order directing the Honorable B. Hayden Crawford, United States Attorney, to furnish to each of these defendants a separate Bill of Particulars in order to permit the defendants to understand and be informed with reasonable certainty of the charges of the Grand Jury and to supply them with information necessary and proper to prepare for their separate defenses:

As to the Formal Charge of Conspiracy

1. To set forth the date and place where the alleged conspiracy was originally formed.

2. That the Government set forth and inform the defendants the names of the conspirators who entered into the conspiracy when it was first formed.

3. That it be set forth the duration of participation in the conspiracy by those by whom it was originally formed. That in the event any of the original conspirators abandoned the conspiracy, to set forth when that abandonment took place and whether or not that person or persons thereafter rejoined the conspiracy.

4. To set forth whether or not defendants were members of the original conspracy and if not to state when each separately joined the conspiracy and the duration each remained a part of the conspiracy; and to set forth fully the facts, if any, upon which the Government relies to show that said defendants participated in said conspiracy during the specific period relied upon.

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Defendants respectfully show the Court that this is a case of extreme public merit and public interest involving the administration of law enforcement and justice in the City of Tulsa, Oklahoma, and inputing and charging the Commission of Crime to an elected official of the City of Tulsa, Oklahoma; that the defendants believe and allege that the indictment was returned upon the false, incorrect, and uncorroborated testimony of known bootleggers, convicts and other persons of ill repute; that it is in truth
34] and in fact wholly impossible for these defendants, on the basis of the indictment filed by the Grand Jury herein, adequately and properly to prepare for the defense of said charges for the reason that the indictment is vague, meaningless and impertinent as to wholly fail to inform the defendants of the charges to be met.

That the interest of justice, due process, and the public interest merit and deserve the granting of a Supplemental Bill of Particulars and the matters requested herein. The defendants further show the Court that there is the most grave and serious doubt that the indictment as a matter of law, or the proof and evidence as a matter of law charge or constitute an offense against the laws of the United States of America; that the defendants are wholly unable to properly present for the consideration of this Court the defense either on the merits or on the law without the matters requested of this Motion for Supplemental Bill of Particulars; that the defendants should not be forced to stand trial if in fact a conviction cannot as a matter of law stand, be affirmed, or sustained.

Defendants further state to the Court that the Motion for Supplemental Bill of Particulars is made in all sincerity and good faith and the matters requested are within the sole knowledge of the Government of the United States of America and are not known or available to these defendants.

Defendants further pray the Court for such further and other relief as to the Court may appear just and proper in the premises.

Pat Malloy
Attorney for defendants,
Clifford E. Wells, John David Hood, T. Martin Edwards, F. Lee Johnson.

Jay L. Jones et al. vs. United States of America

Filed March 22, 1957.

35] Motion of the Defendant Oliver Stephens to Dismiss the Indictment

Comes now the above named defendant, Oliver Stephens, and respectfully moves this Honorable Court that the indictment herein filed against him be dismissed and quashed in its entirety, for the following reasons and upon the following grounds, to-wit:

I. That the indictment is ambiguous, vague, indefinite and so uncertain as to not adequately inform this defendant of what he is charged so as to enable him to properly prepare his defense, thus depriving him of his constitutional rights guaranteed by the Sixth Amendment of the Constitution of the United States.

II. That the indictment neither sets forth nor charges any overt act on the part of this defendant which shows any affirmative participation, or charges any overt act on the part of this defendant which, as a matter
36] of law, could "effect the object of a conspiracy" to import intoxicating liquor into the State of Oklahoma, or which, as a matter of law could "effect the subject of a conspiracy" to carry on the business of wholesale and retail liquor dealers without the payment of special taxes in violation of the statutes of the United States of America relating thereto.

Hall & Graham
By Amos (illegible) Hall
Attorneys for Defendant Oliver Stephens.

Filed March 22, 1957.

[The language of the motion of Paul J. Livingston et al. for a bill of particulars filed March 22, 1957, is substantially identical with the language of the motion of Jay L. Jones et al. for a bill of particulars which appears at page 20 .]

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39] Separate Motion of Defendants Paul J. Livingston, Leo Brantley Jackson, Johnny E. Cole and James Richard Harp for a Continuance.

Come now the above named Defendants jointly and separately and respectfully move the Court to continue for a reasonable time the trial of the above entitled case or cases now set for the 8th day of April, 1957, for the reasons hereinafter set forth and show the Court that said Defendants are wholly unable to prepare for their defense within the time allotted and with due diligence cannot obtain the necessary evidence and make the investigation required to permit them an adequate defense of this action.

Defendants respectfully show the Court that heretofore and on or about February 21, 1957, the Grand Jury returned an Indictment charging these Defendants as being involved in a conspiracy, commencing March 1, 1952 and continuing to on or about February 21, 1957. That said alleged conspiracy charges a confederation of some forty individual conspirators who purportedly carried on a conspiracy over a period of some approximately five years.

40] That in order to properly interview witnesses and investigate said matter and to ascertain the truthfulness or falsity of the charges and allegations made, will require a minimum period of two months.

That these Defendants believe and are reliably informed that in the investigation of this matter and in connection with said Indictment there appeared before the Grand Jury some 135 witnesses and that the investigation consumed the better part of two full months; that it is physically an impossibility to properly investigate the matter and adequately prepare for trial in the time allotted.

That in order to determine whether or not the Defendants and alleged conspirators did or did not have proper wholesale and retail Federal Tax Stamps, it is necessary to check records for a period of five years, and under the new Indictment just returned by the Grand Jury for a period of nine years, and as regards some 30 or more individuals.

That Defendants on information and belief allege that all or many of the witnesses and alleged co-conspirators, upon whose testimony and evidence the Indictments herein necessarily were returned previously and on or about April 1, 1952, gave evidence and testimony, appeared and testified before a Grand Jury of the United States duly convened; that the said Grand Jury returned a "No Bill" covering the identical offenses here charged; that the testimony of the said witnesses who appeared before the Grand Jury was inconsistent and probably perjured either in the appearance before the Grand Jury returning these indictments or before the Grand Jury which returned a "No Bill"; that it is necessary and imperative for purposes of the defense of these Defendants and for the purpose of rebuttal and of impeachment that a complete and thorough investigation be made of the testimony of these witnesses made before the Grand Jury in 1952.

That the evidence upon which the Indictment was returned in its entirety was given by notorious and known bootleggers, convicts and violators of the law; that the investigation of the conversations of such individuals and the necessity of obtaining countervailing evidence
41] to disprove the falsity of the testimony given by such personages is extremely difficult and time consuming, that to deny a reasonable continuance to these Defendants would constitute a denial of due process and an abuse of judicial discretion and deny to the Defendants the right to defend themselves of the charges presented by the Indictment.

That by virtue of a Bill of Particulars filed in this case on the 18th day of March, 1957, Defendants learned and were informed for the first time that the charge of the conspiracy contained in the first Indictment is erroneous and that in truth and in fact a new and different conspiracy formed on January 1, 1948 should have been charged. That it is now incumbent upon these Defendants to make a complete new and further investigation in regard to all matters here involved as regards some 42 conspirators extending over a period of nine years; that it is physically impossible properly to make such an investigation and adequately to prepare for the defense of these charges in the time allotted.

Defendants further show the Court that the charge of a conspiracy in the Indictments is sufficient only because its form meets with the barest requirement; that the overt acts alleged are meaningless, vague, indefinite, confusing and purposefully framed so as not to inform these Defendants of the charges and evidence which will be met; that by reason thereof it has become necessary to make a full, complete and extensive investigation of all matters in order to determine even the relationship or materiality of the overt acts to the conspiracy charged.

Defendants further show the Court that by reason of the filing of the Bill of Particulars, it is now evident and demonstrated to the Court and to these Defendants that the original Indictment returned herein, either by ignorance of the Grand Jury of the true facts or by change of the testimony of witnesses, did not in truth and in fact charge the conspiracy which these Defendants will be called upon to defend at the time of trial.

42] Defendants show the Court that previously all requests for Bill of Particulars requesting additional information, requests for inspection of the matters and all other Motions presented to this Court were overruled and denied; that unless the Defendants are afforded the opportunity by independent investgiation of obtaining the evidence necessary for their defense, they will be deprived of their Constitutional rights to have and obtain a trial of the charges of which they stand charged before a jury of their peers in accordance with the provisions of the Bill of Rights and the Constitution of these United States.

Defendants show the Court that the grant of time within which to make full and proper investigation will in no wise hinder or impede the prosecution of this case by the government of the United States; that if any, their testimony may properly be preserved by depositions as provided for by the Rules of Criminal Procedure for the Federal District Courts; that reason, fairness and justice demand that time be granted to these Defendants and their attorneys to obtain the evidence necessary for their defense of the Indictment; that the request for continuance is not made for purposes of delay, excepting such delay as is reasonably necessary to protect the rights of these Defendants, but is made in the interest of substantial justice and that these Defendants be

accorded those rights and privileges which are guaranteed to the Defendants by the presumption of innocence and the Constitution of the United States.

That there have appeared in the local press articles alleging or inferring that attempts have been made on behalf of the Defendants to suborn or intimidate witnesses; that said stories and allegations are inflamable and highly prejudicial to these Defendants who have no knowledge, interest or participation in such matters or schemes; that these Defendants have not been able to investigate in the allotted time the truth or falsity of such charges and in order adequately to prepare for their defense, must be permitted to do so. Defendants show the Court that they have not had an opportunity to investigate all the
43] matters above set forth or to interview the witnesses and adequately prepare for trial; that they are unable to verify this Petition but believe same to be true; that they request the Order and permission of this Court to be permitted to subpoena witnesses and to adduce testimony and evidence before this Court in support of this Motion so that the interest of justice may be preserved.

Ungerman, Whitebook, Grabel & Ungerman
By (illegible) E. Ungerman
Attorneys for Defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp.

Filed March 22, 1957.

44] Motion of Defendant, Nolen Bulloch, to Dismiss the Indictment

Comes now the defendant, Nolen Bulloch, and respectfully moves this Honorable Court that the indictment herein filed as against this defendant be dismissed and quashed in its entirety as against him, for the following reasons and upon the following grounds, to-wit:

[The language of paragraphs 1 to 14 are substantially identical with the language of paragraphs 1 to 14 of the

motion of Jay L. Jones et al. to dismiss the indictment which appears at page 22 .]

47] Fifteenth

That Count I of the Indictment shows upon its face that the commission of the alleged offenses, if any was committed, and the resulting prosecution therefor is barred by the Statute of Limitations in such cases made and provided for under the Statutes of the United States of America.

Sixteenth

That Count II of the indictment shows upon its face that the commission of the alleged offenses, if any was committed, and the resulting prosecution therefor is barred by the Statutes of the United States of America.

Rucker, Tabor & Cox
Samuel A. Boorstin
W. C. Henneberry
By (illegible)
Attorneys for Nolen Bulloch

Filed March 22, 1957.

48] Motion of Defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp to Dismiss the Indictment.

Come now the above named Defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James R. Harp, jointly and separately and respectfully move of this Honorable Court that the Indictment herein filed as against these Defendants be dismissed and quashed in its entirety as against them for the following reasons and upon the following grounds, to-wit:

[The language of paragraphs 1 to 14 are substantially identical with the language of paragraphs 1 to 14 of the motion of Jay L. Jones et al. to dismiss the indictment which appears at page 22 .]

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51] Fifteenth

That Count I of the indictment shows upon its face that the commission of the alleged offenses, if any was committed, and the resulting prosecution therefor is barred by the Statute of Limitations in such cases made and provided for under the Statutes of the United States of America.

Sixteenth

That Count II of the Indictment shows upon its face that the commission of the alleged offenses, if any was committed, and the resulting prosecution therefor is barred by the Statute of Limitations in such cases made and provided for under the Statutes of the United States of America.

Ungerman, Whitebook, Grabel & Ungerman
By (illegible) E. Ungerman
Attorneys for Paul J. Livingston, Leo Jackson, John E. Cole and James R. Harp.

Filed March 22, 1957.

52] Motion to Elect as Between Counts

Come now the Defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James R. Harp, jointly and severally, and respectfully move the Court for an Order requiring the government to elect upon which one of the two separate Counts set forth in the Indictment it intends to proceed to trial.

Defendants show the Court that the conspiracy attempted to be alleged in the Indictment is, from the face of the Indictment, and as a matter of law, a single offense and cannot be split up or strung outin order to create two separate offenses.

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Ungerman, Whitebook, Grabel & Ungerman
By (illegible) E. Ungerman
Attorneys for Plaintiffs,
Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James R. Harp.

Filed March 22, 1957.

53] Motion of Defendant, Nolen Bulloch for Continuance

Comes now the defendant, Nolen Bulloch, and moves this Honorable Court to continue for a reasonable time the trial of the above entitled cause, now set for the 8th day of April, 1957, for the reason said defendant is unable to proceed to trial of this cause at the time set because of the absence of material evidence which the said defendant has been unable, with due diligence, to obtain.

(1) That said indictment covers a period of nine (9) years and two (2) months, and said defendant cannot in the short period of time prior to trial, check, investigate and verify his own records as to his numerous assignments, time out of the city, and time out of the state, all of which is necessary for the proper preparation of his defense.

(2) This defendant would further show this Honorable Court that the Federal Grand Jury has been in session for more than two (2) months. That this defendant would have only a period of seventeen (17) days from this indictment to attempt to prepare a defense.

(3) Upon information and belief there has been over one hundred thirty-five (135) witnesses testify before said Grand Jury. That this defendant believes that if given the time and opportunity he could ascertain that many of said witnesses testified favorably to this defendant.

(4) Upon information and belief there has been over one hundred thirty-five (135) witnesses testify before said

Grand Jury. This defendant alleges and therefore believes that if given the time and opportunity he could show this Honorable Court, at time of trial that many of said
54] witnesses made false and inaccurate statements before the Grand Jury concerning this defendant.

(5) The defendant would further show the Honorable Court that there has been forty (40) conspirators and co-conspirators indicated and named in said indictment. That this defendant has been unable to make any investigation of said conspirators or co-conspirators whereby he may properly prepare his defense.

(6) This defendant alleges and therefore believes that he cannot receive a fair trial by a jury at this time because of certain newspaper articles alleging that unnamed government witnesses have been threatened and intimidated by parties who have not been identified by the United States District Attorney.

(7) This defendant alleges and believes that many of the witnesses, conspirators and co-conspirators that appeared and testified before the United States Grand Jury, on April 9, 1952, appeared and testified before the present Grand Jury. This defendant alleges and believes that if given the time and opportunity he can investigate and obtain evidence relevant and material to this defendant's defense of this indictment.

(8) This defendant alleges and therefore believes that many of the witnesses, conspiratos and co-conspirators dislike, hate and have made threats in the past "To get even", with this defendant, because of the numerous newspaper articles he has written exposing their illegal activities. This defendant alleges and therefore believes that if granted a reasonable time, he can investigate and obtain evidence relevant and material to this defend-
55] ant's defense against such perjured testimony before the Grand Jury.

(9) This defendant would point out to this Honorable Court that the Bill of Particulars furnished by the United States to this defendant does not set out any date or dates

as to the entrance of any of the indicted co-conspirators into the alleged conspiracy charged in the indictment and that by reason thereof it is impossible for this defendant to make any investigation necessary to a proper defense of the charges set forth in the indictment in view of the difference in occupation and relationship of this defendant with the co-conspirators and co-defendants.

The defendant states to this Honorable Court that the facts, beliefs and evidence upon which this motion for continuance is premised are not presently available to this defendant, and this defendant further moves this Honorable Court for permission to subpoena witnesses and adduce evidence before this Honorable Court in support of his motion for continuance.

The defendant would further show this Honorable Court that this motion is not made for delay but that substantial justice may be done.

Rucker, Tabor & Cox
Samuel A. Boorstin
W. C. Henneberry
By (illegible)
Attorneys for Nolen Bulloch

Filed March 22, 1957

56]

Separate Motion of Defendant, Don Gray

I. Comes now the defendant, Don Gray, and moves the Court to dismiss Count I of this indictment for the reason and upon the ground that said Count does not charge this defendant with any violation of the laws of the United States.

II. Comes now the defendant, Don Gray, and moves the Court to dismiss Count II of this indictment for the reason and upon the ground that said Count does not charge this defendant with any violation of the laws of the United States.

III. In the event the foregoing motions, or either of them are overruled, then this defendant moves the Court to require the plaintiff to elect and announce whether plaintiff intends to try case No. 12993 in this Court, or the above styled case, said case No. 12993 being between the same parties and alleging the same conspiracies as set forth in the above styled case, and to elect as to whether to try Count I or Count II of the above styled case by which plaintiff attempts to allege that as a part of a conspiracy the defendants and others performed certain acts, or to elect to try Count II of the above styled case by which plaintiff alleges that as a part of the same conspiracies the defendants and others performed other acts.

IV. In the event the foregoing motions to dismiss are not sustained, then this defendant, Don Gray, represents and shows to the Court that he cannot have a fair trial and due process of law as granted by the
57] Fifth and Sixth Ammendments to the Constitution of the United States, unless he is tried separately from the other defendants, for the reason that Overt Acts alleged which this defendant, Don Gray, with having conferred with one Fred A. Griffing about the sale of wholesale liquor and that said Fred A. Griffing obtained a quantity of liquor from this defendant on December 18, 1956, and again on January 15, 1957, both quantities allegedly obtained by T. Martin Edwards for delivery at Tulsa, Oklahoma, and all the other 27 Overt Acts set forth have no relationship under their face to any act performed by this defendant, or in any way related to this defendant, and set forth that certain defendants allegedly agreed to divide payments recoved from gamblers, bootleggers and prostitutes, and it is not charged that this defendant had anything, or was in any way connected with any gambling, or prostitution, or bribery, and evidence of such activity, if there is such evidence, will be prejudicial to the rights of this defendant at a mass conspiracy and prevent him from having a fair and impartial trial.

V. In the event the foregoing motions to dismiss are overruled, then this defendant, Don Gray, moves the Court to grant to him a continuance for the reason and upon the

ground that he is charged with having entered into and participated in a conspiracy from January 1, 1948 to February 21, 1957, or over nine years. The Grand Jury deliberated and heard the evidence of over 150 witnesses over a period of seven weeks before returning in March, 1957, a true bill, which is in the Indictment No. 12993, and then resumed their deliberations and on March 15, 1957, returned a true bill, which is the present indictment, and this case is set for trial on April 8, 1957, or 23 days from the date the present Indictment was returned which charges, among other things, that during said
58] period, in excess of nine years, this defendant and others carried on a wholesale and retail liquor business and willfully failed to pay the special taxes therefore. It is impossible for this defendant to adequately prepare his defense and search his records for nine years between now and the time of trial, or between the date of the return of the Indictment in case No. 12993 and said time of trial, and the witnesses are many and their addresses unknown to their defendant, who has a right to have his counsel interview them and there is not sufficient time between now, or between the date of the return of the Indictment in case No. 12993, and the date of trial to prepare to account for his activity for said period of nine years.

WHEREFORE, defendant, Don Gray, moves the Court to grant unto him a continuance of 90 days so that he may adequately prepare to meet the issues with which the Government has charged him.

VI. In addition, this defendant, Don Gray, moves the Court to dismiss Count I of the Indictment for the reason that it is duplicitous and charges this defendant with commission of two or more distinct offenses in the single Count and fails to allege the necessary and essential elements of the offenses attempted to be charged with sufficient certainty as to enable this defendant to avail himself of protection from future prosecution for the same offenses regardless of whether he be acquitted or convicted in this case, and said offenses attempted to be charged by Count I is further duplicitous for the reason that during a portion of the time of the alleged conspiracy the

importation of intoxicating liquor into the State of Oklahoma was not a violation of any Federal Law and therefore there could have been no continuing of conspiracy as alleged and as set forth in the bill of particulars could not have existed for the reason that under the
59] Constitution of the United States of America and the State of Oklahoma, the defendant was guilty of no offense during said period of time.

A. L. Shortridge
Attorney for Defendant,
Don Gray.

Filed March 22, 1957.

60] Motion for Separate Trial

Come now Elmer Lee Oakley, Bernard Neil Williams and Paul Donley Rucker under the provisions of Rule 14 of the Federal rules of Criminal procedure and move the Court for an order allowing said Defendants to be tried separately from the co-defendants named, in the indictment returned herein and for reasons therefor state:

I. That under the Federal Laws of the United States your moving Defendants were and became legitmate retail liquor dealers by having complied with all of the Internal Revenue laws qualifying as such.

II. That the indictment charges in the Overt Acts that certain named persons were to make a division of the money received from various sources on account of gambling and prostitution and the sale of whiskey. That your moving Defendants have never engaged in overseeing gambling or prostitution as charged in the indictment and the evidence concerning gambling and prostitution, if allowed to be introduced, to substantiate the allegations of the indictment would be highly prejudicial to the moving Defendants and would prevent said Defendants from having a fair and impartial trial.

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III. That on account of the numerous several Defendants charged in the conspiracy the jury may not be able to distinguish and bear in mind the evidence produced, if any, against your moving Defendants as against all of the other evidence introduced against the numerous other Defendants.

Paul Gotcher of Anthis & Gotcher
Attorney for Elmer Lee Oakley,
Bernard Neil Williams and Paul
Donley Rucker.

Filed March 25, 1957.

62] Separate Motion of Defendants Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp for Severance and for a Separate Trial.

Come now the Defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp, jointly and separately and respectfully move the Court for an Order of Severance and for a separate trial for these Defendants and in support thereof respectfully show the Court:

1. That the said Defendants are police officers of the City of Tulsa, Oklahoma; that none of said Defendants has heretofore been indicted, charged with, or convicted of any offense against the laws of the United States of America or of any other sovereign.

2. That these Defendants are jointly charged with other Defendants, and alleged co-conspirators, who are notorious bootleggers, gamblers, prostitutes and violators of the law and "police characters".

That many of said Defendants have criminal records and convictions and their criminal activities and criminal reputations are generally known to the public.

63]

3 That the alleged conspiracy here charged is variously, depending upon which Indictment is referred to, one

continuing from March 1, 1952 to February 21, 1957, involving a period of some 5 years or from January 1, 1948 to February 21, 1957, or from January 1, 1948 to February 21, 1957, involving a period of over 9 years. That as police officers of the City of Tulsa, and in connection with the due and lawful enforcement of their duties, these defendants have incurred the enmity, animosity, and bitterness of many of the co-defendants and alleged co-conspirators.

4. That there has been pleaded and charged in the Overt Acts of the Indictment, and the Defendants believe the government will attempt to adduce in evidence for the purpose of prejudicing these Defendants, proof of activities such as gambling and prostitution, having no relation to the alleged purpose of the conspiracy charged; namely, to import intoxicating liquor into the State of Oklahoma and to sell same without obtaining Federal Tax Stamps therefor.

5. Defendants further show the Court that it will be wholly impossible as a matter of fact, and as a matter of law, for these Defendants to have and obtain a fair and impartial trial, within the meaning of and as guaranteed to these Defendants by the Constitution of the United States, unless a severance and a separate trial is accorded them; that to compel the trial of these Defendants together with the Defendants described above, in a single trial, involving an alleged conspiracy covering a period of over 9 years, together with 16 other co-defendants, and involving extraneous prejudicial matters, would so involve and confuse the evidence, the issues and the jury, that it is impossible for these Defendants to obtain a fair and impartial trial.

64] 6. Defendants further show the Court that as a matter of fact the interests of these Defendants are different from and hostile to the interests of the other and above described Defendants; that the trial of twenty Defendants involving a conspiracy to commit offenses against the United States over a period of 9 years, in which conspiracy some 40 persons are alleged to have been involved will require the submission of such complex and abstruse questions to the jury as unduly to confuse and unduly prejudice the substantial rights of these Defendants; that the issues will be and become practically unmanageable.

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7. Defendants further show the Court that incompetent and prejudicial evidence as regards the admissions, confessions and acts of all or some of the 16 other Defendants may, and must, and will be introduced by the government in the joint trial of these defendants; that said damaging and prejudicial evidence as against the other Defendants cannot possibly, notwithstanding proper instructions of the Court to the Jury to disregard same as regards these Defendants, be excluded from the minds of the Jury and that of necessity the minds of the Jury will be poisoned and unduly prejudiced and these Defendants denied a fair and impartial trial.

8. That the confession of guilt of Some Defendants or alleged conspirators, which, on information and belief, these Defendants allege to exist, and which probably will be used by the government, if adduced in evidence, would be calculated to and would inevitably so prejudice the minds of the Jury against these Defendants as to deprive them of a fair and impartial trial.

9. That additionally, if these Defendants be granted their lawful right to exercise the full challenge to the Jury panel, the Court will be compelled on behalf of 20 Defendants to permit the preemptory challenge of 180 Jurors in the selection of a Jury in this cause; that the
65] trial will be unduly lengthened and the resultant complexity will result in confusion; that it is in the interest of orderly practice and justice that severance be granted.

10. These Defendants further show the Court that the confessions or admissions of one or more of the Defendants or conspirators herein will tend to and necessarily will prejudice these Defendants and although not admissible as against these Defendants, must necessarily prejudice them in the joint trial of this action; that it would be an abuse of judicial discretion to deny these Defendants separate trials under such circumstances as no instruction which the Court could possibly give the Jury would remove the injury and prejudice thereof.

11. Defendants further show the Court that by reason of the publicity and the front-page newspaper stories

appearing in connection with this cause, that such prejudice has been engendered as against certain Defendants and groups of Defendants herein, that these Defendants cannot have and obtain a fair and impartial trial if jointly tried in a common conspiracy and in a single trial with such other Defendants.

WHEREFORE, Defendants pray, in the interest of fairness, justice and to avoid undue prejudice, and in order that they be granted and receive a fair and impartial trial to which these Defendants are entitled under the Constitution of the United States that the severance be granted and that a date be set by the Court for the separate trial of these Defendants.

Ungerman, Whitebook, Grabel & Ungerman
By (illegible) E. Ungerman
Attorneys for Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James R. Harp.

Filed March 25, 1957.

66] Motion of the Defendant, Nolen Bulloch, for Severance and Separate Trial.

Comes now the defendant, Nolen Bulloch, and moves for severance and separate trial upon the grounds and for the reason:

(1) That the defendant is a career newspaper man and is not a bootlegger, bondsman, prostitute or wholesale retail liquor dealer;

(2) That this defendant alleges and therefore believes that he could not receive a fair and impartial trial from the jury if forced to stand trial with known criminals, bootleggers and prostitutes;

(3) That this defendant alleges and therefore believes that any admissions or alleged confessions by said

witnesses, conspirators or co-conspirators would not be admissible against this defendant;

(4) That this defendant alleges and therefore believes that any admissions or alleged confessions by said witnesses, conspirators or co-conspirators would not be admissible in its entirety against this defendant;

(5) This defendant alleges and therefore believes that many of the witnesses, conspirators and co-conspirators dislike, hate and have made threats in the past "To get even", with this defendant because of the numerous newspaper articles he has written through the years exposing their illegal activities. This defendant alleges and therefore believes that he should not to stand trial with known criminals.

67]

Rucker, Tabor & Cox
Samuel A. Boorstin
W. C. Henneberry
By (illegible) B. Rucker
Attorneys for Nolen Bulloch

68] A f f i d a v i t

State of Oklahoma, County of Tulsa. ss

Nolen Bulloch, of lawful age, being first duly sworn, upon his oath states:

That he is a career newspaper man, having been so engaged for twenty-four years; that he has never been engaged in the sale or dispensing of intoxicating liquors either as a wholesaler or retailer; that his defense is antagonistic to the defense of certain of the co-defendants and co-conspirators; that he believes that he will be prejudiced on a joint trial with the other defendants and co-conspirators because of evidence that is admissible against certain of the co-defendants is inadmissible against him and there is no way in which the Court can substantially protect his

rights against the prejudicial effect of such evidence; that many of the co-defendants, witnesses and co-conspirators dislike and hate him because in the past in the performance of his work as a reporter he has exposed their illegal activities, that they have threatened him and stated to him that they intended to "get even" that among those who have so threatened him are: Cleo Epps, Bill Edwards and Cecil Boone; that he should be allowed to stand trial solely upon any evidence that the government might have against him, and upon his character and reputation in the community, and not forced to stand trial with known criminals, bootleggers, and prostitutes and thus be forced to suffer the risk of being held guilty by association by reason of the fact that many of the defendants and co-conspirators have been and are known to be habitual violaters of the law. That if forced to trial at this time with all the other defendants, it would be impossible for him to have a fair and impartial trial.

That this motion is not made for the purpose of delay or vexation but is made in good faith and to the end that the material rights of this affiant will not be prejudiced.

69] Further affiant sayeth not.

Nolen Bulloch

Subscribed and sworn to before me, the undersigned Notary Public in and for said county and state, this 25th day of March, 1957.

Kathleen Goodner
Notary Public

My Commission Expires 5-1-59.

Filed March 25, 1957.

70] Motion Theopolis Scoggins for Seperate Trial

Comes now the defendant and request that said court grant a seperate trial or severance to the above name

defendant in that said defendant will be prejudice by going to trial with the other name defendants for the following reasons:

1. That said defendant is a Negro, and that there may be certain questions asked by the court or by counsel for the other named defendants on voir dire examination that may prejudice the rights of the defendant in giving a fair an impartial trial. Further, they may arise certain instance in the trial of the other name defendants that may prejudice this defendant because of his race.

2. That said indictment is so wide, the overt acts so disconnected and diffused that being tried together would make a fair trial impossible.

3. That said defendant is not named in either of the overt acts in count I or II, and that the evidence introduced by the Government as to the overt acts pretaining to the other named defendants would be prejudicial to this defendant and would not afford him a fair an impartial trial.

4. That said defendant's attorney is a member of the State Legislature, and it being impossible for him to prepare for trial at the date of setting and by granting a severance will enable the defendant's counsel to prepare a proper defense for the defendant.

71] 5. And further, by not being mention in the overt acts it makes the defense more difficult for the defendant's counsel to prepare for trial, and that said defendant's counsel will certainly be prejudice by not granting a severance.

Gordon L. Patten, Att.

Filed March 25, 1957.

72] Request the Name of Witnesses to be Used by the Government Against the Defendant Theopolis Scoggins.

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Comes now the defendant and request that the Government furnish the name of the witnesses to be used by the Government against the defendant, so that the defendant can properly prepare for trial and the defendant can properly make a defense.

Gordon L. Patten

Filed March 25, 1957.

73] Motion for Severance

Comes now Clifford E. Wells, and moves the Court for an order allowing said defendant to be tried separately from the co-defendants named in the indictment returned herein, and for reasons therefor states:

I. That the overt acts contained in the indictment herein relating to this defendant receiving money from certain named persons are acts done in his capacity as a licensed professional bondsman and are not connected with the violation of an offense under the laws of the United States of America.

II. That this defendant, as a professional bondsman, would be prejudiced by the admission of evidence against the other named co-defendants that is unrelated and unconnected to his lawful profession.

III. That on account of the lengthy period of time covered by the indictment and the numerous defendants named herein, the jury may not be able to distinguish the evidence, if any, against this defendant from any evidence offered against any and all other defendants.

Pat Malloy and Rooney McInerney
By Rooney McInerney
Attorneys for Clifford E. Wells

Filed March 25, 1957.

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74] Verdict

We, the Jury, find the defendant Jay L. Jones is guilty, as charged in the first count of the indictment.

We, further find the defendant Jay L. Jones not guilty, as charged in the second count of the indictment.

April 25, 1957.

Robert L. Ellis
Foreman

Filed April 26, 1957.

75] Verdict

We, the Jury, find the defendant Paul J. Livingston is guilty, as charged in the first count of the indictment.

We further find the defendant Paul J. Livingston not guilty, as charged in the second count of the indictment.

April 25, 1957.

Robert L. Ellis
Foreman

Filed April 26, 1957.

76] Verdict

We, the Jury, find the defendant Jack Gott is guilty, as charged in the first count of the indictment.

We further find the defendant Jack Gott not guilty, as charged in the second count of the indictment.

April 25, 1957.

Robert L. Ellis
Foreman

Filed April 26, 1957.

Jay L. Jones et al. vs. United States of America

77] Verdict

We, the Jury, find the defendant Leo Brantley Jackson is guilty as charged in the first count of the indictment.

We further find the defendant Leo Brantley Jackson not guilty as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

78] Verdict

We, the Jury, find the defendant Johnny E. Cole is guilty, as charged in the first count of the indictment.

We further find the defendant Johnny E. Cole not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

79] Verdict

We, the Jury, find the defendant James Richard Harp is guilty, as charged in the first count of the indictment.

We further find the defendant James Richard Harp not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

Jay L. Jones et al. vs. United States of America

80] Verdict

We, the Jury, find the defendant William Thomas Peterson is guilty, as charged in the first count of the indictment.

We further find the defendant William Thomas Peterson not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

81] Verdict

We, the Jury, find the defendant Oliver B. Stephens is guilty, as charged in the first count of the indictment.

We further find the defendant Oliver B. Stephens not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

82] Verdict

We, the Jury, find the defendant John E. McAfee is guilty, as charged in the first count of the indictment.

We further find the defendant John E. McAfee not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

Jay L. Jones et al. vs. United States of America

83] Verdict

We, the Jury, find the defendant T. Martin Edwards is guilty, as charged in the first count of the indictment.

We further find the defendant T. Martin Edwards is guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

84] Verdict

We, the Jury, find the defendant Elmer Lee Oakley is guilty, as charged in the first count of the indictment.

We further find the defendant Elmer Lee Oakley not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

85] Verdict

We, the Jury, find the defendant John David Hood is guilty, as charged in the first count of the indictment.

We further find the defendant John David Hood is guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

Jay L. Jones et al. vs. United States of America

86] Verdict

We, the Jury, find the defendant F. Lee Johnson is guilty, as charged in the first count of the indictment.

We further find the defendant F. Lee Johnson not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

87] Verdict

We, the Jury, find the defendant Paul Donley Rucker is guilty, as charged in the first count of the indictment.

We further find the defendant Paul Donley Rucker not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

88] Verdict

We, the Jury, find the defendant Fred A. Griffing is guilty, as charged in the first count of the indictment.

We further find the defendant Fred A. Griffing not guilty as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

Jay L. Jones et al. vs. United States of America

89] Verdict

We, the Jury, find the defendant Don Gray is guilty as charged in the first count of the indictment.

We further find the defendant Don Gray not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

90] Verdict

We, the Jury, find the defendant Theopolis Scoggins not guilty, as charged in the first count of the indictment.

We further find the defendant Theopolis Scoggins not guilty, as charged in the second count of the indictment.

April 25, 1957. Robert L. Ellis
Foreman

Filed April 26, 1957.

Jay L. Jones et al. vs. United States of America

91] Defendants Request for Instructions

Come now the above named Defendants, jointly and severally, and respectfully requests that the Court give to the Jury in the above entitled cause the following Requested Instructions, being Defendants' Requested Instructions No. 1 through No. 29, attached hereto and made a part hereof, in addition to the basic Instructions to the Jury required by law.

Ungerman, Whitebook, Grabel & Ungerman
By (illegible) E. Ungerman
Attorneys on behalf of all Defendants

92] Defendants' Requested Instruction No. 1.

The Court instructs the Jury that if you find and believe beyond a reasonable doubt that a conspiracy among any of the defendants existed, the object of which was to violate the laws of the United States in the importation of intoxicating liquor into the State of Oklahoma, you are instructed that the object of any such conspiracy to import intoxicating liquor into the State of Oklahoma from the State of Missouri ceased and was fully completed, accomplished and effected, at the point and at the time where such liquor crossed the State line of Oklahoma in transportation from the foreign state into Oklahoma, and that no act done and committed by any of the defendants herein subsequent thereto could be an act done to further the object of the conspiracy.

Given

_____
Judge

Refused

_____
Judge

Jay L. Jones et al. vs. United States of America

Given As Modified

_____

Judge

93] Defendant's Requested Instruction No. 2

The Court instructs the jury that you, Gentlemen, the jury is the sole and only judge of the facts of this case. Nothing the Court may say with respect to the facts, nor any expression of opinion by the Court, nor any comment by the Court on the evidence or the facts, is evidence in this case or is in any way binding upon the jury. You, and you alone, have the right, and it is your duty to reach your own conclusion as to the facts. This Court has no power or authority and cannot require you to find any fact against any defendant. Your conclusions will be those which you determine on the basis of the facts which you find from the evidence.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

94] Defendants' Requested Instruction No. 3

Ladies and Gentlemen, you are further instructed that you cannot find any defendant guilty on any Count merely from a preponderance of the evidence adduced in this case. The law requires, to sustain a conviction, that you must be shown by clear, convincing and direct evidence to a moral certainty and beyond a reasonable

doubt that the defendant is guilty of the offense as charged. Unless you are, as to each Count of the Indictment, and as charged in the other Instructions of this Court, convinced by clear, direct and certain evidence, to a moral certainty and beyond a reasonable doubt that the particular defendant is guilty, then you are instructed that it is your duty to acquit such Defendant and return a verdict of not guilty.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

95] Defendant's Requested Instruction No. 4

Ladies and Gentlemen of the Jury, the Court instructs you that the law presumes a defendant to be innocent of the charges made by the Indictment and each Count thereof. Each defendant must be proved by competent evidence to be guilty beyond a reasonable doubt as to each Count of the Indictment. The presumption of innocence attends and cloaks every defendant throughout the trial, in your deliberations and until your verdict is rendered. The burden of overcoming this presumption rests upon the United States and never at any time shifts to any defendant. It attends each defendant upon submission of the case to you and entitles every defendant to your verdict of acquittal until and unless the evidence of the Government satisfies you beyond a reasonable doubt of his particular guilt. If, upon a consideration of all the evidence adduced in the cause, you can reconcile the evidence upon any reasonable hypothesis consistent with any defendant's innocence it is your duty to do so and in such case find such defendant not guilty and so return your verdict.

Jay L. Jones et al. vs. United States of America

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

96] Defendants' Requested Instruction No. 5

The Court instructs the Jury that the conspiracy or conspiracies, attempted to be proved by the United States in this case is based on circumstantial evidence. In such case the Court instructs you that as to each defendant the circumstantial evidence relied on by the United States must be completely inconsistent with innocence and must exclude every other reasonable hypothesis except that of guilt, and the case as to each defendant must be tested by this rule.

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

97] Defendants' Requested Instruction No. 6

Gentlemen, the indictment which the Grand Jury has returned you will take with you to the jury room only as a memorandum of the nature of the charge. This indictment is no proof of the guilt of the defendants or any one of them. You must not consider it as any proof. It is no evidence at all; no evidence of any kind. It is merely a formal charge, returned by a Grand Jury which heard only a part of the evidence, and did not hear all the matters presented to you, and was returned on the basis of only part of the evidence. The evidence upon which you will decide this case, and the only evidence that there is in the case for you to consider, is the testimony of the witnesses who have appeared before you and the exhibits which they have identified and which have been offered here in evidence. You will not consider the indictment as any proof against any one of the defendants.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

98] Defendants' Requested Instruction No. 7

Ladies and Gentlemen of the Jury, the Court instructs you that the State and City Officers, including Police Officers of the City of Tulsa, Oklahoma, do not bear any official duty by virtue of their positions to enforce the Liquor Importation Prohibition laws or the Internal Revenue Laws of the United States of America. Under our system of Government the jurisdiction of the Federal Government is

seperate and distinct from that of the State. It is the duty of the duly elected and appointed Federal officers to enforce the Federal law. The mere failure of City Police or other officers or citizens to enforce the laws of the United States or to prevent a conspiracy to violate them, is not enough to support a conviction of the conspiracy as charged in the Indictment of this case.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

99] Defendant's Requested Instruction No. 8

Ladies and Gentlemen of the Jury, the Court instructs you that the defendant is entitled to the judgment of each individual Juror as to his guilt or innocence. It is proper and the duty of Jurors to listen carefully to the views and opinions of the other Jurors. But when a Juror, having heard the evidence and considered it, and having heard and considered the opinions and conclusions of the other Jurors, concludes that there is a reasonable doubt in his mind as to the guilt of the defendants or any defendant or concludes that the defendants are or any defendant is not guilty as charged under any Count of the Indictment it then becomes the duty of such Juror to maintain his opinion and judgment, even though other Jurors or all the other Jurors may have a difrerent opinion. No Juror should assent to a verdict which he himself does not conscientiously believe a correct one, according to the law as given to you by the instructions of this Court and the evidence in the case.

Jay L. Jones et al. vs. United States of America

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

100] Defendant's Requested Instruction No. 9

The Court instructs the jury that all agreements are not unlawful, nor are all conspiracies unlawful conspiracies. In order for an agreement or conspiracy to become unlawful or a criminal conspiracy there must be an intent to commit acts which are offenses against the United States. An agreement or conspiracy to commit acts which are not offenses against the United States is not a criminal conspiracy even though the parties may have thought so when the conspiracy was formed, if any such conspiracy you find was in fact formed.

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

Jay L. Jones et al. vs. United States of America

101] Defendants' Requested Instruction No. 10

The Court instructs you that the Defendants and each of them is charged under the Indictment in this case with but one conspiracy, that being a conspiracy entered into by the Defendants on or about May 1st, 1948, for the purpose of violating the laws of the United States of America and continuing thereafter until on or about January 7th, 1957. Under such an Indictment you must find the Defendants guilty of the Conspiracy as charged in the Indictment or return a verdict of not guilty. Proof not of a single conspiracy, as charged, but of several conspiracies, if such you find, will not sustain a conviction in this case. If under the instructions of the Court you find and believe from the evidence beyond a reasonable doubt that there existed at various times and involving various defendants distinct and different conspiracies, notwithstanding the objects of said conspiracies may have been the same or similar to the one conspiracy charged in the Indictment, you are instructed that there is in law a variance in proof from the Indictment and your verdict must be not guilty.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

102] Defendants' Requested Instruction No. 11

The Court instructs the Jury that proof of participation in the offense which is charged to be the object of the conspiracy does not in itself prove the conspiracy charged in the Indictment.

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Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

103] Defendants' Requested Instruction No. 12

The jury is instructed that the probability of defendants' guilt, as charged in the indictment relating to a conspiracy, is not sufficient to warrant a conviction. Nor is it sufficient that the greater weight or the preponderance of the evidence supports the allegations of the indictment; that is not sufficient to warrant a conviction. Nor is it sufficient that, upon the doctrine of chance, it is more probable that defendant is guilty; that is not sufficient to warrant a conviction. To warrant a conviction of this conspiracy each of the defendants must be proved guilty so clearly and so conclusively that there is no reasonable theory upon which he can be innocent, when all the evidence in the case is considered together.

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

104] Defendants' Requested Instruction No. 13

The Court instructs the Jury that mere proof of participation in the object of the conspiracy does not, of itself, prove conspiracy on the part of any defendant. You are further instructed that proof of participation in the act of unlawful importataiòn of liquor or sale without a proper Federal Stamp, if any, by any defendant, if you so find, or proof of participation in the act of engaging in the business of wholesale or retail dealer in intoxicating liquors without the securing of Tax Stamp therefor, if you find that any defendant did any such act, does not, of itself, prove that there was a conspiracy to do such act or to accomplish such purposes.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

105] Defendants' Requested Instruction No. 14

You are instructed that much evidence has been adduced in this case by persons who claim or are alleged to be co-conspirators with other named Defendants of the conspiracy charged. The Court instructs you that a defendant may not be convicted upon the testimony of a co-conspirator alone, unless such testimony of the co-conspirator, if you first find that a conspiracy existed, is corroborated by other evidence tending to connect the accused with the commission of the offense charged.

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Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

106] Defendants' Requested Instruction No. 15

The Court instructs the jury that although the indictment of the Grand Jury constitutes no proof of any kind against defendants and is no indication that they or any of them are guilty of the offenses charged therein the United States of America is bound by the allegations and admissions, if any, made therein, and before you may find defendants or any of them guilty under any of the counts of the indictment, the United States must first have proved to your satisfaction beyond a reasonable doubt all of the essential facts as set forth in each of said counts. Under the law defendants may be tried only for the offenses as charged in and under the indictment. You may not, because you believe or find that the defendant is guilty of some other or a similar offense, return a verdict of guilty against him; unless the Government has proved beyond a reasonable doubt that he is guilty of the very acts charged your verdict will be for acquittal.

Given

_____

Judge

Refused

_____

Judge

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Given As Modified

_____
Judge

107] Defendants' Requested Instruction No. 16

The Court instructs the Jury that you cannot and shall not convict any defendant on suspicion or speculation.

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

108] Defendants' Requested Instruction No. 17

The Court instruct the jury that before you can find any Defendant guilty of any acts charged against him in the Indictment the burden devolves upon the United States of America by competent proof to prove such Defendant guilty beyond a reasonable doubt.

Given

_____
Judge

Refused

_____
Judge

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Given As Modified

_____

Judge

109] Defendants' Requested Instruction No. 18

The Court instructs the Jury that the fact that any defendant did not take the witness stand cannot be and should not be considered by you as any admission of guilt, and that no inference of any kind whatsoever can be drawn against any defendant by reason of his failure to take the stand and testify in his own behalf. The law guarantees to every person charged with a ciminal act the absolute and unqualified right of not taking the stand and testifying and the law further requires and guarantees that no inference of any kind shall be drawn against such person by reason of his invocation of the right and privilege. This is a fundamental and basic right guaranteed by the Constitution of the United States.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

110] Defendants' Requested Instruction No. 19

The Court instructs the Jury that the fact that an Indictment was returned by the Grand Jury against the defendants, or any Defendant, and the Indictment itself is no proof of the guilt of the defendants, or any Defendant, whatsoever or that the defendants did any of the acts

charged therein or that they are guilty, or any Defendant is guilty of any crime whatsoever. The Indictment does not constitute any evidence against the defendants and should not in any manner be considered by you. It is merely the means by which a defendant is brought to bar to answer the charges made against him. It was returned by the Grand Jury which did not hear all of the matters presented to you. An innocent man may well have an Indictment filed against him. It is for you to determine from the evidence adduced before you and under the Instructions of this Court whether Defendants are, or any Defendant is guilty of the commission of any offense or not.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

111] Defendant's Requested Instruction No 20

The Court instructs the jury that commission of an overt act or any other act innocently done by a defendant, even though in fact tending to further the alleged objects and purposes of a conspiracy, does not make such defendant a conspirator.

Given

_____

Judge

Refused

_____

Judge

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Given As Modified

_____

Judge

112] Defendants' Requested Instruction No. 21

The Court instructs the Jury that before you can find any defendant guilty of a conspiracy, the evidence must show something more than a mere participation in the overt acts. There must first be proof of the unlawful agreement. Even though you may find and believe from the evidence that one or more of the defendants did some act which may have promoted or did promote or further the alleged object of the conspiracy charged, still you cannot find such defendant guilty as a conspirator unless you first find that such defendant had entered into an unlawful agreement at or prior to the time of the doing of the act which furthered or promoted the alleged object of the conspiracy.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

113] Defendants' Requested Instruction No. 22

The Court instructs the jury that the presumption of innocence which attends each defendant, if there is nothing to overcome it, is along sufficient to justify -- and under the law, indeed requires that you return a verdict of not guilty.

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Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

114] Defendants' Requested Instruction No. 23

The Court instructs the Jury that knowledge or approval, without cooperation or agreement to cooperate, is not sufficient to constitute one a conspirator. The law is that a person may know that others are engaged in a conspiracy, and such person may even approve of such illegal conspiracy and scheme, but knowledge or approval is not sufficient to constitute that person a conspirator. There must, in addition to such knowledge or even approval, be a knowing and intentional cooperation or agreement to cooperate before there can be any conspiracy of any kind.

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

115] Defendants' Requested Instruction No. 24

The Court instructs the Jury that before you can find any defendant guilty of a conspiracy as charged you must find that such defendant and some other person or persons jointly agreed and determined between themselves and possessed an active, positive intent to effect the alleged object of the conspiracy prior to the commission of the acts committed, if any.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

116] Defendants' Requested Instruction No. 25

The Court instructs you that evidence as to all transactions concerning the importation of whiskey or intoxicating liquors by the defendants, co-conspirators or others, into the State of Oklahoma from Missouri or other adjoining States and as to all sales of whiskey or intoxicating liquors within the State of Oklahoma, by defendants, co-conspirators or others, occuring prior to March 30, 1956, shall be disregarded by the Jury and you are admonished not to consider it in any respect.

Given

_____

Judge

Refused

_____

Judge

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Given As Modified

_____
Judge

117] Defendants' Requested Instruction No. 26

The Court further instructs you that no person is guilty of carrying on the business of a wholesale liquor dealer or retail liquor dealer unless he willfully fails to pay the special tax as required by law. In order to find a conspiracy to violate the Internal Revenue laws of the United States relating to the carrying on of the business of wholesale liquor dealer or retail liquor dealer you must find that the defendants conspired willfully to violate said act. To do something willfully means more than the mere doing of the act. It requires a finding of an "evil intent".

Given

_____
Judge

Refused

_____
Judge

Given As Modified

_____
Judge

118] Defendants' Requested Instruction No. 27

The Court further instructs you that as a matter of law the evidence adduced in this case is insufficient to find that a conspiracy as charged in the Indictment or any conspiracy to violate the laws of the United States existed as between the defendants or any of said defendants prior to March 30, 1956. You are further instructed in that connection that the evidence of conspiracy to violate the laws of the United States, if any

existed or was formed on or about March 30, 1956 must be determined by you beyond a reasonable doubt from the evidence as to matters occurring on and after said date and having relation thereto.

Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

119] Defendants' Requested Instruction No. 28

The Court instructs the jury that the jury must first find that the minds of the parties met in agreement and understandingly so as to bring about an intelligent and deliberate agreement to effect a common design or purpose which is the essence of the alleged conspiracy do the acts and to commit the objects of the alleged conspiracy. A defendant can be guilty of consent only where consent is that of an affirmative and express character. Before a defendant can be considered to have entered a conspiracy he must be found beyond a reasonable doubt to have had knowledge of the common design and must have participated with a view to furtherance of said common design.

Given

_____

Judge

Refused

_____

Judge

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Given As Modified

_____

Judge

120] Defendants' Requested Instruction No. 29

The Court instructs the jury that you are the sole judges of the credability of the witnesses and the weight and value to be given to their testimony. In determining the weight or credit, if any, which you will give to the testimony of any witness you may take in consideration the conduct and demeanor of the witness on the stand, his manner of testifying, his interest, if any, or his desire in the result of the trial, his background, profession and reputation in the community; whether or not his testimony was impeached in whole or in part, is biased or prejudiced against any one or more of the defendants; by evidence impeaching his character for truth, honesty or integrity; by his admission of the commission of perjury, or the giving of inconsistent testimony in a prior cause or proceeding. You may further take into consideration, in regard to the testimony of various witnesses whose testimony was adduced in evidence, who are alleged to be co-conspirators in the alleged conspiracy and who have not been indicted for their participation in said alleged conspiracy, whether they were dominated by any prejudice; whether they were or appeared to be testifying under some promise or under some sort of fear. And in this connection, you may consider the effect of their testimony as placing the guilt upon the shoulders of the defendant rather than upon themselves. And in determining these factors you should bring to your assistance your common sense and your knowledge of human nature and your experience in human affairs.

You are instructed that if any of the witnesses which have appeared before you have exhibited prejudice against the defendants or any defendant or tested by the factors above set forth you are satisfied that they have not testified truly as to any material fact and are not worthy of belief and you think their testimony should be disregarded, in your discretion you may reject in whole or in part the testimony of any such witness. You may wholly reject the testimony of any witness whom you believe to have knowingly or willfully testified falsely as to any material fact or facts, or who was successfully impeached by reason of conflicting statements made out of Court.

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Given

_____

Judge

Refused

_____

Judge

Given As Modified

_____

Judge

Filed April 24, 1957

121] Defendant Don Gray's Motion for Judgment of Acquittal

Comes now the defendant Don Gray and after the evidence on the part of the plaintiff is closed moves the Court for a judgment of acquittal of the offense charged in Count One of the indictment for the reason and upon the ground that the evidence is insufficient to sustain a conviction for said offense.

A. L. Shortridge
Attorney for defendant Don Gray

Filed April 23, 1957

122] Defendant Don Gray's Motion for Judgment of Acquittal

Comes now the defendant Don Gray and after the evidence on the part of the plaintiff is closed moves the Court for a judgment of acquittal of the offense charged in Count Two of the indictment for the reason and upon the ground that the evidence is insufficient to sustain a conviction for said offense.

A.L. Shortridge
Attorney for defendant Don Gray

Filed April 23, 1957

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123]Specified Requested Instructions By United States of America

Regulation and General Law on Federal Wholesale
And Retail Special Tax Stamp

1. Definition of a wholesale liquor dealer.

Every person who sells or offers for sale distilled spirits in quantities of five wine gallons or more to the same person at the same time is a wholesale dealer in liquors and is liable to the special tax imposed, 26 C.F.R., Part 194.29.

Given:_____

Refused:_____

Given in Substance:_____

2. One order - separate deliveries.

Where a retail dealer in liquors ACCEPTS an order for five wine gallons or more of distilled spirits a transaction has been made in a wholesale quantity, notwithstanding the order is filled and delivery is made in parcels of less than five wine gallons and on different dates, 26 C.F.R., Part 194.28.

Given: _____

Refused:_____

Given in Substance:_____

3. Each place of business is taxable.

Liability for the special federal tax stamp on retail and wholesale liquor dealers is incurred at each and every place where distilled spirits are sold or offered for sale, 26 C.F.R., Part 194.60.

Given:_____

Refused: _____

Given in Substance:_____

4. Effect of a federal liquor tax stamp.

A federal liquor tax stamp is NOT a license to violate state liquor laws. It is a receipt for taxes assessed by the federal government on the business or occupation of re-
124] tail or wholesale liquor dealers, 1954 Internal Revenue Code, Section 5691, and related regulations.

Given:_____

Refused:_____

Given in Substance:_____

5. If a wholesale liquor dealer's tax stamp is obtained, the person conducting the wholesale liquor business is required to file what is known as a Form 52A showing who he purchases liquor from and a Form 52B showing the persons to whom he sold liquor in wholesale quantities during the previous month, 26 C.F.R., Part 194.210.

Given: _____

Refused: _____

Given in Substance: _____

Law of Conspiracy

6. Adoption of prior acts and declarations after joining conspiracy.

Where one joins a conspiracy AFTER its formation and actively participates in it, he ADOPTS the previous acts and declarations of his fellow conspirators, so that such acts and declarations, although done or made before he joined the conspiracy, are admissible against him, United States v. Logan, 45 F.872.

Given: _____

Refused:_____

Given in Substance:_____

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7. Absence of a defendant.

Where the existence of a conspiracy is sufficiently shown, an act or declaration of one conspirator may be shown as against another conspirator, although the act was done or the declaration was made out of the presence or hearing of the defendant against whom it is sought to be used, Francis v. United States, 152 F. 2d 155.

Given:_____

Refused:_____

Given in Substance:_____

8. Other crimes and offenses in conspiracy.

The fact that other crimes and offenses, in addition to the federal liquor laws, may also have been within the contemplation of the conspirators CAN NOT relieve the defendants of the offense here charged. For the objects of a conspiracy may be numerous. Some may even be innocent, but if ONE of such objects be to commit an offense against the United States, the case falls within the condemnation of the conspiracy statute, Allen v. United States, 4 F. 2d 688, 692.

Given:_____

Refused:_____

Given in Substance:_____

9. The court is requested to give the general instructions on conspiracy contained in the Washington County liquor con-
125] spiracy case, starting at the bottom of page 3 and ending at the top of page 6.

Filed April 24, 1957

_____

Jay L. Jones et al. vs. United States of America

126] Motion In Arrest Of Judgment

Come now Paul Donley Rucker and Elmer Lee Oakley, jointly and severely, and move this Honorable Court to enter an order of arrest of judgment and for reasons therefor state:

I. That Count One of said Indictment is too vague and uncertain in language to charge your moving Defendants with the violation of any criminal statute of the United States of America.

II. That this Honorable Court was without jurisdiction of offense charged, if any, in the Indictment.

Paul Donley Rucker and Elmer Lee Oakley,
Defendants
By Paul Gotcher
Ernest R. Anthis, Jr.
Attorneys for Defendants

Filed April 30, 1957.

127] Common Separate Motions of Defendants Paul J. Livingston, Leo Jackson, John E. Cole and Jim R. Harp, For a New Trial

Come now the defendants, Paul J. Livingston, Leo Jackson, John E. Cole and Jim R. Harp, individually and separately and each filing this as a separate motion for a new trial respectfully moves of this Honorable Court to vacate and to set aside the verdict of the Jury rendered herein on the 26th day of April, 1957, and to grant to these defendants, and each of said defendants, a new trial for the reasons below set forth which affected substantially and prejudicially the rights of these defendants and which constitutes prejudicial error. These defendants respectfully show this Court that this Court's attention as to each of the matters below stated was at the time of trial, and prior thereto, directed to the Court's attention by proper motions, objection to introduction of testimony, motions to

strike, motions for a mistrial and by exception to the Court's ruling when and required by the Federal Rules of Criminal Procedure and that said error is hereby and by this motion directed to the Court's attention so that this Court may be fully apprized of the same and the error corrected upon a new trial.

1. The Court erred in denying and overruling the motion of these defendants to dismiss the Indictment and each of the counts thereof.

2. The Court erred in denying defendants motion for a Bill of Particulars.

128] 3. The Court erred in denying defendants motion to require the Government to elect upon which one of the two separate counts set forth in the Indictment it intended to proceed.

4. The Court erred in denying defendants motion to proceed upon the trial of a single offense, and in permitting the Government to split a single crime or offense into two separate offenses.

5. The Court erred in denying defendants motion for Severance and for a separate trial.

6. The Court erred in denyin the motion of these defendants for inspection of the Grand Jury Minutes and Proceedings and failing and refusing to permit the inspection of said Proceedings by their Attorneys of Record.

7. The Court erred in denying defendants alternative motion to strike.

8. The Court erred in denying and refusing defendants motion and request for list of Government witnesses.

9. The Court erred in denying and refusing the request of defendants for a list of the witnesses which the Government intended to use upon trial for the purpose of making proper voir dire examination of the Jury panel.

10. The Court erred in overruling defendants objections to the prejudicial remarks of the United States District Attorney in his opening statement

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11. The Court erred in denying and overruling the separate motions of each of the above defendants for Acquittal made at the conclusion of the Government's case.

12. The Court erred in denying and overruling the separate motions of each of the above defendants for Acquittal made at the conclusion of all the evidence, both sides having rested.

129] 13. The verdict of the Jury is contradictory, inconsistent and demonstrates on its face that the Jury was misled and failed to understand the law or instructions of the Court and that the verdict is a result of bias, passion and prejudice and not a finding upon the evidence.

14. The verdict of the Jury upon its face and as a matter of law demonstrates that the Jury returned convictions based upon the commission of the substantive offenses which it was charged was the object of the Conspiracy charged, and not upon the crime charged in the Indictment.

15. The verdict of the Jury on its face purports to convict these defendants of the commission of one-half of the conspiracy charged in the Indictment and as a matter of law cannot stand; a defendant in law is and must be either guilty or not guilty of the offense charged -- he cannot be half guilty.

16. The verdict of the Jury is contrary to the weight of the evidence

17. The verdict of the Jury is contrary to the law.

18. The verdict of the Jury is contrary to the instructions of this Court.

19. The verdict of the Jury is not supported by substantial evidence.

20. As a matter of law the evidence adduced and all inferences reasonably to be drawn therefrom is not inconsistent with every hypothesis of innocence and is insufficient to support the verdict of the Jury.

21. As a matter of law the evidence in its entirety does

not show the commission of any offense against the laws of the United States of America by these defendants.

130] 22. The Court erred in admitting testimony of the following witnesses over objections of these defendants properly interposed at time of trial, which was prejudicial to these defendants and deprived them of a fair trial:

Roy Farley	Janice Guinn
Cleo Epps	Velma King
Dale D. Hines	Venice Shafer
Harvey Pugh	Beverly Clever
Carl D. Harp	Shirley Duncan
Pauline Lambert	Joyce Adams
	Pat Knode

23. The Court erred in denying and overruling the motions of defendants to exclude all testimony of all witnesses dealing with prostitution, gambling and defalcations, if any, involving the defendant Wells, the admission of which was as a matter of fact and as a matter of law wholly immaterial and irrelevant to the conspiracy charged and was finally so found and held to be by this Court; the admission of which was fundamentally so inflamatory and highly prejudicial that it deprived and prevented a fair trial to these defendants and said error was not and could not be cured by the admonishment of the Court to the Jury after such erroneous admission to disregard same.

24. The Court erred in denying and overruling the motion of defendant to strike all of the testimony of all witnesses dealing with prostitution, and gambling for the reasons above stated.

25. The Court erred in denying and overruling the various motion for mistrial occasioned by the erroneous reception of testimony dealing with prostitution and gambling which was fundamentally so inflamatory and highly prejudicial that it deprived defendants of any prevented a fair trial for these defendants.

131] 26. The Court erred in charging the Jury as follows:

(a) "One who engaged in the business of wholesale liquor dealer

is required by Federal law to pay a special tax. The wholesale dealer is required to file monthly what is known as a Form 52-A, showing who he purchased liquor from, and a Form 52-B showing the names of the persons to whom he sold liquor in wholesale quantities during the previous month."

(b) "A wholesale liquor dealer is defined by law as a person who sells or offers for sale distilled spirits in quantities of five wine gallons or more to the same person at the same time. If a dealer in liquors accepts an order for five wine gallons or more of distilled spirits and the order is filled and delivery is made in parcels of less than five wine gallons and on different dates, a transaction has been made in a wholesale quantity."

(c) "The evidence presented by the Government pertaining to the importation of liquor from Missouri into Oklahoma during the period from April 5, 1951, to on or about March, 1956, the date upon which the defendants are charged with having entered into the unlawful conspiracy and the evidence pertaining to the carrying on of a liquor business by some of the defendants during the same period and willfully failing to pay the special tax required by Federal law may properly be considered by you, but only for a limited purpose. It may be considered only in connection with the intent of the defendants in determining whether the defendants intentionally and willfully conspired to commit offenses against the United States during the period from about March, 1956 to on or about February 21, 1957."

132] (d) "You are instructed that police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation Act or the Internal Revenue Laws of the United States. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose of aiding in the enforcement of Federal laws pertaining to the transportation and sale of liquor would not be sufficient to prove a conspiracy upon the part of such officers to violate such Federal laws. But if such police officers entered into an agreement to aid and assist others in carrying on the liquor business and knowingly and intentionally cooperated with others in the importation of liquor into Oklahoma in violation of Federal law or aid and assist others in carrying on the business of either a wholesale or retail liquor dealer and willfully failing to pay the special tax as required by Federal law,

then such police officers do commit an offense against the United States."

(e) "The objects of a conspiracy may be numerous - some may involve only violation of state law and some may even be innocent, but if one of such objects be to violate a criminal law of the United States, the case falls within the condemnation of the Federal conspiracy statute."

To all of which proper objections and exceptions were at the time of trial and prior to the retirement of the Jury taken in open Court and the grounds thereof transmitted to the Court.

27. The Court committed basic and fundamental error in connection with its basic instructions in charging the Jury as follows:

133] (a) "Where two or more act together to accomplish something unlawful, a conspiracy is shown even though there be no direct evidence of an express agreement. The agreement is generally a matter of inference deduced from acts of the persons accused done in pursuance of an apparent criminal purpose."

(b) "The evidence does not tend to prove the existence of an alleged conspiracy until about March, 1956."

(c) "If you find from the evidence by the required degree of proof that the conspiracy alleged in Count I was willfully entered into by the defendants on or about March, 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the objects of the conspiracy and after the inception thereof, then you should find all defendants who were members of the conspiracy guilty as charged in Count I of the indictment."

(d) "If you find from the evidence by the required degree of proof that the conspiracy alleged in Count II was willfully entered into by the defendants on or about March, 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the objects of the conspiracy and after the inception thereof, then you should find all defendants who were members of the conspiracy guilty as charged in Court II of the indictment."

(e) "Each defendant in this case is presumed at the outset to be innocent and this presumption exists in his favor and abides with him for his proper protection at every stage of the trial until his guilt is established by the evidence beyond a reasonable doubt."

134] (f) "Where it appears that any witness has willfully testified falsely respecting a material matter, the Jury may reject his testimony in its entirety, except as it finds corroboration or support in other evidence."

(g) "As to each defendant on trial you may find him guilty on both counts of the indictment, not guilty on both counts of the indictment, or guilty on one count and not guilty on the other count of the indictment."

28. The Court erred in failing and refusing to charge the Jury as requested by defendants Requested Instructions No. 1 through 29 inclusive, which were submitted in writing to the Court and objection to said refusal properly made which requested Instructions were not fully covered by other Instructions given by the Court.

29. The Court erred in overruling the various motions for mistrial made by defendants at and during the trial for the reasons stated in the said motions for a mistrial.

30. The Court erred in failing to properly instruct the Jury with a full and accurate statement of the law of the case and the nature of the offense charged; particularly and prejudicially the Court's charge fails to and does not make clear to the Jury the fact that the offense charged is an agreement to violate certain laws, and not the commission of the substantive offense or offenses.

31. The Court erred in instructing the Jury and commenting on the evidence in advising the Jury that in connection with their consideration of the testimony of the bootlegger Archie Moore that the defendants wholly failed to rebut the testimony in any manner and that the evidence remained uncontradicted. That by reason of said comment the defendants were substantially prejudiced and deprived of a fair trial as such statements had

135] the effect in the minds of the Jury and was in fact a comment on the fact that the defendants had not taken the witness stand in their own defense; all in violation of the Constitutional rights of these defendants.

32. The Court erred in submitting the case to the Jury for the reason that as a matter of law and upon all of the evidence adduced there was and is a total and fatal variance between the crime charged in the Indictment, to-wit: an alleged conspiracy entered into on or about January 1, 1948, to commit certain offenses against the United States, which these defendants allegedly joined as follows:

Leo Jackson	January 1, 1952
John E. Cole	January 1, 1952
James Harp	January 1, 1952

of which the proof totally failed; and the alleged conspiracy submitted by the Court to the Jury, to-wit, a conspiracy allegedly entered into on or about March, 1956 as to which there is no evidence of the knowledge or participation of these defendants.

33. The Court erred in submitting the case as to these defendants to the Jury for the reason that as a matter of law there was no evidence adduced sufficient to sustain a verdict against these defendants for the commission of any offense against the United States of America.

34. The Court erred in submitting the case to the Jury because there was a total failure of proof as to these defendants of any aiding, abbetting or assistance, to any persons in the importation of intoxicating liquor into the State of Oklahoma, or into the City of Tulsa, Oklahoma; any participation therein or any agreement to effect such purpose or object.

136] 35. The Court erred in submitting the case to the Jury as to these defendants because under the evidence, as to these defendants, as a matter of law, no offense against the laws of the United States was or could by any action of said defendants be committed.

36. That the ruling of the Court permitting the Government to split a single offense, namely a conspiracy to commit an

offense or offenses against the United States, into two separate crimes, or alternatively, by permitting the charge in the Indictment and the submission to the Jury to stand on two separate counts, which the Court submitted as independent drimes, and advising the Jury that a verdict could be returned upon both or either of said counts, was in fact and in effect the submission to the Jury of a "special verdict" or of "special interrogatories", which is an "innovation in American Criminal practice", a departure from established due process of law in criminal cases, which substantially affected the rights of these defendants according to law and the Constitution of the United States of America, constitutes a fatal error, and a denial of fundamental due process.

37. The Court erred in submitting to the Jury any form of verdict other than "guilty" or "not guilty". That the Conspiracy charged was a single and indivisable offense, to which the defendants could enter only one plea "not guilty" and to which the Jury could, under the law, return only one response.

38. The Court erred in submitting to the Jury a form of verdict permitting the Jury to return a verdict of "guilty of one-half of the offense charged."

137] 39. The verdict of the Jury purporting to find these defendants guilty of one-half of the offense charged in the Indictment and not guilty of one-half of the offense charged in the Indictment is contradictory, and vitiates the verdict as a matter of law; such being not a verdict under the law and as guaranteed by the Constitution of the United States and the due process of law.

Ungerman, Whitebook, Grabel & Ungerman
By (illegible) E. Ungerman
Attorneys for defendants,
Paul J. Livingston, Leo Jackson,
John E. Cole and James R. Harp

Filed April 29, 1957.

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138] Separate Motion of Defendant Don Gray For Judgment of Acquittal or in The Alternative For a New Trial

I. Comes now the defendant Don Gray and moves the Court to enter judgment of acquittal on Count I of the indictment in this case, in accordance with his motions for acquittal made at the close of plaintiff's testimony and renewed at the close of all of the testimony, for the reason and upon the ground that said Count I does not state facts sufficient to constitute an offense against the United States, nor does said Count I state facts sufficient to constitute an offense against the United States by this defendant within the jurisdiction of this Court, said Count does not state sufficient facts in either respect either by direct statement or by incorporation by reference.

II. Defendant Don Gray further moves the Court to enter judgment of acquittal in his favor upon said Count I in accordance with his motions for acquittal made at the close of plaintiff's testimony and renewed at the close of all of the testimony for the reason and upon the ground that there was no substantial evidence to support a verdict or judgment of guilty against him upon said Count.

III. In the event the foregoing motions or either of them be denied the defendant Don Gray moves the Court to grant to him a new trial for the following reasons, to-wit:

139] 1. The Court erred in denying defendant Don Gray's motion for acquittal on said Count I made at the conclusion of plaintiff's testimony and renewed at the conclusion of all of the testimony.

2. The Court erred in denying defendant Don Grays' motion for mistrial made after the jury returned its verdict which motion was upon the ground that such verdict was against the law and against the law under the evidence for the reason said verdict showed upon its face that the jury had acquitted said defendant of a portion of the offense charged and found him guilty of another portion of the offense charged.

3. There was a substantial and prejudicial variance between the allegations of said indictment and the proof in that

said indictment charged a conspiracy that existed from on or about January 1, 1948 to about February 21, 1957 and the only conspiracy proven, if one was proven which this defendant denies, and which was submitted to the jury, was a conspiracy from on or about March 30, 1956 to February 21, 1957.

4. There was further substantial variance prejudicial to this defendant for the reason that said indictment charged one overall conspiracy participated in by 20 defendants and 21 or more alleged conspiractors who were not named as defendants and the proof at most established numerous, separate, distinct and disconnected conspiracies to which this defendant was not a party and which were not offenses against the United States.

5. The Court erred in denying this defendant's motion for mistrial because the Court admitted into evidence testimony of Pauline Lambert, Calvin Polk, Janice Anchor Guinn, Velma King, Venus Schaffer, Beverley Coleen Cleaver, Shirley M. Duncan, Joyce Adams, Pat Knode and others, concerning prostitution, which evidence was irrelevant, immaterial and improper because it neither tended to prove or disprove any issue in the charges against the defendant and was prejudicial to the substantial rights of this defendant and this defendant believes that the Court's admonition to the jury to disregard this testimony was not sufficient to cure the error of admitting it into evidence.

140] 6. The Court erred in permitting the United States District Attorney to refer to some of the defendants as bootleggers in his opening argument, during his questioning of witnesses and in his closing argument, when such facts had not been established or determined by the jury and were prejudicial to this defendant and such statements were expressions of his opinion and a conclusion, and unjustified by the evidence and invaded the province of the jury.

7. The Court erred in admitting into evidence testimony of Delbert W. Armes, Superintendent of the Audit Unit of the Alcohol and Tobacco Tax Unit concerning the amount of taxpaid intoxicating liquor purchased by defendant Don Gray for each month during the year 1956 and for January and February, 1957, because such testimony was incompetent, immaterial and prejudicial to defendant Don Gray and neither tended to prove or disprove any issue in this case.

8. The Court erred in permitting the United States District Attorney to use during this argument, Government Exhibit "6", which purported to be a chart setting forth said monthly purchases, which chart was demonstrative and had not been admitted into evidence and was prejudicial to this defendant.

9. The Court erred in refusing to declare the mistrial requested by defendant Don Gray after said chart was used over his objection and after the testimony of witness Armes went in over the objection of defendant Don Gray and because of the admission of such evidence and the use of said chart defendant Don Gray had requested a mistrial.

10. The Court erred in admitting into evidence Government Exhibit "7", which purported to be a partial list of the retail liquor dealer tax stamps for the City of Tulsa and was not even claimed to be a complete list for said City or for Tulsa County or for the Northern Judicial District of Oklahoma.

141] 11. The Court erred in refusing defendant Don Gray's request for mistrial after said Government Exhibit "7" was admitted over his objection, that same was incompetent, immaterial and irrelevant for the reason that it did not tend to prove or disprove any issue in this case especially under Count II of this indictment (defendant Don Gray was acquitted on said Count II) and was prejudicial to this defendant because Count II did not charge where any wholesale and retail liquor dealer business was carried on by defendant Don Gray or any other defendant who did not pay the special taxes therefor and said exhibit and the testimony relating thereto did not tend to prove or disprove that the defendant Don Gray failed to pay such special taxes for said business where he conducted such business in the State of Missouri.

12. The Court erred in permitting James G. Carroll, Assistant Chief of the Enforcement Branch of the Alcohol and Tobacco Tax Unit to testify with regard to whether or not this defendant or any defendant had paid any retail or wholesale liquor dealer tax during the years 1948, 1950, 1951 and 1952 for the same reasons heretofore given with regard to Government Exhibit "7" and for the further reason that said testimony and Government Exhibit "8", a written summary thereof, was not the best evidence and admissible by any exception to the best evidence rule because

the original records were not produced and were put beyond the reach of either plaintiff or the defendant by the acts of plaintiff's agents in destroying them.

13. The Court erred in admitting the testimony of Cleo Epps, Roy Farley, Roy Hines, Harvey Pugh, Billie Popovich, Carl Harp, Cecil Boone, Harvey Miller, Ed DeWiese, Archie Moore, Lee Uto, William Robert Curlee, Bonnie Dotson, Alvin D. Miller, William Lawson, Jimmy Johnson, Lawrence Hamilton, Paul Brannan, E.C. Carter, John Bill Edwards, Charles Herrlinger, Ben Bly, Bill Massey, Bob Massey, David Massey, Paul Vawter and
142] George Mose, and each of them insofar as their testimony tended to prove actions before the date of the conception of the conspiracy, that is March 30, 1956, and the transportation of whiskey from Missouri to Oklahoma before April, 1951, any failure to pay tax and any alleged pay-off for the reason and upon the ground that testimony of said witnesses and each of them tended to disclose at most a plan that was not an offense under the Federal Law as charged in the indictment, was beyond the scope of the charges in the indictment and proved at most, disconnected and independant conspiracies, if any, and was irrelevant, immaterial and incompetent as to defendant Don Gray for the reason that the testimony of said witnesses as to such matters was prejudicial and did not connect him with any offenses charged in the indictment and any admonition by the Court to disregard any portion of such testimony concerning the transportation of liquor before April, 1951 and concerning the conspiracy which was submitted to the jury as having commenced March 30, 1956, was not sufficient to nulify the prejudicial effect of such testimony.

14. The Court erred in permitting Charles J. Hienen of the Office of the Director of Internal Revenue for Oklahoma to testify that defendant Don Gray did not have any retail or wholesale liquor dealer stamps in the Northern District of Oklahoma, for the reason that such testimony was incompetent, immaterial and irrelevant as to said defendant because he was not charged with carrying on or conspiring to carrying on any such business in said district and willfully failing or conspiring to willfully not pay such taxes in said district.

15. The Court erred in permitting Agents Ralph R. Lashbrook, Ralph S. Chance, Elwin S. Gibson and Edwin S. Burns of the Alcohol and Tobacco Tax Unit to testify concerning any transaction

in 1953 at Anderson, Missouri, because such testimony was irrelevant, immaterial and incompetent to prove either
143] of the charges set forth in the indictment and was prejudicial to this defendant because at most it tended to prove independant disconnected transactions.

16. The Court erred in permitting over defendant's objection, witness Glenn Starrett of the Alcohol and Tobacco Tax Unit to testify concerning the arrest of one Robert Fawcett on May 14, 1956, and the arrest of one Lefty Anderson on April 23, 1955, and stopping Don Gray with 60 cases of whiskey on November 5, 1956, for the reason and upon the ground that such testimony was irrelevant, incompetent and immaterial and said testimony not being among the alleged overt acts and tending to establish the conspiracy charged was prejudicial to this defendant as being proof offered to show different and disconnected offenses.

17. The Court erred in permitting said witness Glenn Starrett over the objection of this defendant to testify concerning any facts regarding the arrest of Paul Neal on January 11, 1957, for the reason that said testimony was inadmissible for any purpose and at most tended to establish a matter not alleged in the indictment and not in any way connected with any offense charged and prejudicial to this defendant as being proof of an independent and disconnected unlawful act.

18. The Court erred in failing to declare a mistrial and discharge the jury after said testimony concerning Paul Neal's arrest of January 11, 1957, was admitted in evidence.

19. The Court erred in refusing to give defendant's requested instructions numbered 1 to 29 inclusive and erred in refusing to give each one of them.

20. The Court erred in his charge, which purported to define the business of a wholesale liquor dealer by stating therein that a wholesale liquor dealer is required to file a monthly report on Form 52A and Form 52B when there was no
144] evidence regarding any such failure by this defendant to file such reports and there was no charge in the indictment concerning the failure to file such reports, which failure is a separate and distinct offense beyond the scope of any charge made in the indictment.

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21. The Court erred in his charge when he stated that if an order for distilled spirits is filled on different dates by making delivery in parcels in less than 5 wine gallons, the transaction is a wholesale sale if the order was for more than 5 wine gallons.

22. The Court erred in his charge by advising the jury that evidence of transactions between April 5, 1951 and March, 1956, could be considered for the limited purpose of establishing the intent of the defendants to willfully conspire to commit the offenses charged during the period from March, 1956, to about February 21, 1957.

23. The Court erred in charging the jury that police officers were guilty of a violation of Federal Law if they entered into an agreement to aid and assist others in carrying on the liquor business in Oklahoma.

24. The Court erred by stating that the subjects in the conspiracy may be numberous, some may involve only a violation of State law and some may even be innocent, but if one of such subjects is to violate a criminal law of the United States the case falls within the condemnation of the Federal Conspiracy Statute because such definition of conspiracy is broader than the charges made against this defendant and said portion of the charge is inconsistent with previous portions of the charge and confusing to the jury and prejudicial.

25. The Court erred in charging that one who came into the conspiracy with knowledge of the conspiracy is guilty thereof because said charge conflicts with the Court's charge that one of the defendants could be found guilty that conspired to violate the laws of the United States as set forth in
145] the indictment, and acted with intent to further the purpose of the conspiracy charged.

26. The Court erred in charging that any defendant was responsible for the acts of the other defendants whether he was in or out of the alleged conspiracy.

27. The Court erred in his charge concerning transportation in that he did not include all of the exceptions to Sec. 1262, Title 18, of the United States Code, because he omitted

to require the jury to find that such importation or conspiracy to import, if any, was of intoxicating liquor not intended for scientific, sacramental, medicinal or mechanical purposes.

28. The Court erred in his statement in his charge that John Bill Edwards' testimony was corroborated by a large number of witnesses.

29. The Court erred in expressing his own personal opinion in his charge by saying that witness Herrlinger had told the truth.

30. The Court erred in charging the jury that the testimony of John Bill Edwards was uncontradicted because said portion to the charge amounted to a comment on the failure of the defendants to testify and was inconsistent with his instruction upon the right of each defendant not to take the stand and was erroneous in that there was a comment upon the defendants failure to produce witnesses when it was not shown that any such witness was not more available to the defendants than to the plaintiff.

31. The verdict is contrary to the weight of the evidence.

32. The verdict is not supported by substantial evidence.

33. The Court erred in stating to the jury at the close of the plaintiff's case that he was sustaining motions for acquittal as to defendants Bulloch, Wells and Williams because there was no evidence as to them and stating in the presence of the jury that there was sufficient evidence to make a prima facie
146] case against the remaining defendants, such explanation being prejudicial and the term prima facie not being defined.

34. The Court erred in as a part of his charge admonishing counsel for the defense for failure to produce testimony concerning officers Broner and Carter.

And of the matters aforesaid, defendant Don Gray prays judgment of the Court.

A. L. Shortridge
Attorney for defendant
Don Gray

Filed April 30, 1957

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147] Common Separate Motions of John David Hood and T. Martin Edwards, For a New Trial

Come now the defendants, John David Hood and T. Martin Edwards, individually and separately and each filing this as a separate motion for a new trial respectfully moves of this Honorable Court to vacate and set aside the verdict of the Jury rendered herein on the 26th day of April, 1957, and to enter a judgment of acquittal as to each count, or in the alternative to grant these defendants, and each of them, a new trial for the reasons below set forth which affected substantially and prejudicially the rights of these defendants and which constitutes prejudicial error. These defendants respectfully show this Court that this Court's attention as to each of the matters below stated was at the time of trial, and prior thereto, directed to the Court's attention by proper motions, objection to introduction of testimony, motions to strike, motions for a mistrial and by exception to the Court's ruling when and required by the Federal Rules of Criminal Procedure and that said error is hereby and by this motion directed to the Court's attention so that this Court may be fully apprized of the same and the error corrected upon a new trial.

[The language of paragraphs 1 to 31 of the motion is substantially identical with the motion of Paul J. Livingston et al. for a new trial which appears at page 87 .]

154] 32. The Court erred in submitting the case to the Jury for the reason that as a matter of law and upon all of the evidence adduced there was and is a total and fatal variance between the crime charged in the Indictment, to-wit: an alleged conspiracy entered into on or about January 1, 1948, to commit certain offenses against the United States, which these defendants allegedly joined as follows:

John David Hood	January 1, 1948
T. Martin Edwards	January 1, 1948

of which the proof totally failed; and the alleged conspiracy submitted by the Court to the Jury, to-wit, a conspiracy allegedly entered into on or about March, 1956 as to which there

is no evidence of the knowledge or participation of these defendants.

33. The Court erred in submitting the case as to these defendants to the Jury for the reason that as a matter of law there was no evidence adduced sufficient to sustain a verdict against these defendants for the commission of any offense against the United States of America.

34. That the ruling of the Court permitting the Government to split a single offense, namely a conspiracy to commit an offense or offenses against the United States, into two separate crimed, or alternatively, by permitting the charge in the Indictment and the submission to the Jury to stand on two separate counts, which the Court submitted as independent crimes, and advising the Jury that a verdict could be returned upon both or either of said counts, was in fact and in effect the submission to the Jury of a "special verdict" or of "special inter-
155] rogatories", which is an "innovation in American Criminal practice", a departure from established due process of law in criminal cases, which substantially affected the rights of these defendants according to law and the Constitution of the United States of America, constitutes a fatal error, and a denial of fundamental due process.

35. The Court erred in submitting to the Jury any form of verdict other than "guilty" or "not guilty". That the conspiracy charged was a single and indivisable offense, to which the defendants could enter only one plea "not guilty" and to which the Jury could, under the law, return only one response.

36. The Court erred in submitting to the Jury a form of verdict permitting the Jury to return a verdict of "guilty of one-half of the offense charged."

37. The verdict of the Jury purporting to find these defendants guilty of one-half of the offense charged in the indictment and not guilty of one-half of the offense charged in the Indictment is contradictory, and vitiates the verdict as a matter of law; such being not a verdict under the law and as guaranteed by the Constitution of the United States and the due process of law.

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38. The defendants John David Hood and T. Martin Edwards further move the Court to vacate the verdict of the Jury particularly with respect to the conviction on Count II of the Indictment and to render thereon a judgment of acquittal of these defendants for the following reasons, to-wit:

(a) The acquittal of the other co-defendants on Count II is a finding of fact by the Jury that a Conspiracy to violate Count II did not exist and therefore the defendants herein cannot be convicted on Count two upon that finding of fact by the Jury.

156] (b) The acquittal by the Jury of the other co-defendants as to Count two constitutes a finding of fact that a conspiracy to violate Count two did not exist and as a matter of law therefore, these defendants cannot be convicted of violating Count Two.

(c) The evidence is insufficient to support a conviction of guilty as to these defendants on said Count Two.

(d) The verdict of conviction of these defendants as to Count Two is inconsistent with and in conflict with the verdict of the Jury as to the other co-defendants.

(e) The verdict of conviction of these defendants is in conflict with the instructions of the Court relative to there being a single conspiracy.

Pat Malloy & Rooney McInerney
By Pat Malloy
Attorneys for John David Hood
and T. Martin Edwards

Filed April 30, 1957

157] Common Separate Motions of Defendants Elmer Lee Oaklay, F. Lee Johnson, Paul Donley Rucker, and Fred A. Griffing, For a New Trial

Come now the defendants, Elmer Lee Oakley, F. Lee Johnson, Paul Donley Rucker, and Fred A. Griffing, individually and

separately each filing this as a separate motion for a new trial respectfully moves of this Honorable Court to vacate and to set aside the verdict of the Jury, rendered herein on the 26th of April, 1956, and to enter a judgment of acquittal as to each of these defendants, or in the alternative to grant these defendants and each of them a new trial for the reasons below set forth which affected substantially and prejudicially the rights of these defendants and which constitutes prejudicial error. These defendants respectfully show this Court that this Court's attention as to each of the matters below stated was at the time of trial, and prior thereto, directed to the Court's attention by proper motions, objection to introduction of testimony, motions to strike, motions for a mistrial and by exception to the Court's ruling when and required by the Federal Rules of Criminal Procedure and that said error is hereby and by this motion directed to the Court's attention so that this Court may be fully apprized of the same and the error corrected upon a new trial.

[The language of paragraphs 1 to 31 of the motion is substantially identical with the motion of Paul J. Livingston et al. for a new trial which appears at page 87 .]

164] 32. The Court erred in submitting the case to the Jury for the reason that as a matter of law and upon all of the evidence adduced there was and is a total and fatal variance between the crime charged in the Indictment, to-wit: an alleged conspiracy entered into on or about January 1, 1948, to commit certain offenses against the United States which these defendants allegedly joined as follows:

Elmer Lee Oakley	January 1, 1948
F. Lee Johnson	January 1, 1948
Paul Donley Rucker	January 1, 1948
Fred A. Griffing	January 1, 1948

of which the proof totally failed; and the alleged conspiracy submitted by the Court to the Jury, to-wit, a conspiracy allegedly entered into on or about March, 1956 as to which there is no evidence of the knowledge or participation of these defendants.

33. The Court erred in submitting the case as to these defendants to the Jury for the reason that as a matter of law there was no evidence adduced sufficient to sustain a verdict against these defendants for the commission of any offense against the United States of America.

34. That the ruling of the Court permitting the Government to split a single offense, namely a conspiracy to commit an offense or offenses against the United States, into two separate crimes, or alternatively, by permitting the charge in the Indictment and the submission to the Jury to stand on two separate counts, which the Court submitted as independent crimes, and advising the Jury that a verdict could be returned upon both or either of said counts, was in fact and in effect the submission to the Jury of a "special verdict" or of "special interrogatories", which is an "innovation in American Criminal practice", a departure from established due process of law in criminal cases,
which substantially affected the rights of these defendants
165] according to law and the Constitution of the United States
of America, constitutes a fatal error, and a denial of fundamental due process.

35. The Court erred in submitting to the Jury any form of verdict other than "guilty" or "not guilty". That the Conspiracy charged was a single and indivisable offense, to which the defendants could enter only one plea "not guilty" and to which the Jury could, under the law, return only one response.

36. The Court erred in submitting to the Jury a form of verdict permitting the Jury to return a verdict of "guilty of one-half of the offense charged."

37. The verdict of the Jury purporting to find these defendants guilty of one-half of the offense charged in the Indictment and not guilty of one-half of the offense charged in the Indictment is contradictory, and vitiates the verdict as a matter of law; such being not a verdict under the law and as guaranteed by the Constitution of the United States and the due process of law.

Gotcher & Anthis
By Paul Gotcher
Attorneys for defendants,
Elmer Lee Oakley, and Paul
Donley Rucker.

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Pat Malloy and Rooney McInerney
By Pat Malloy
Attorneys for F. Lee Johnson and
Fred A. Griffing.

Filed April 30, 1957

166] Separate Motion of Defendant Oliver Stephens For a New Trial

Comes now the defendant, Oliver B. Stephens, and respectfully moves this Honorable Court to vacate and set aside the verdict of the Jury rendered on the 26th day of April, 1957, and to grant the said defendant a new trial for the reasons hereinafter set out which substantially and prejudicially affect the rights of the said defendant and which constitute prejudicial error.

The defendant respectfully shows this court that the errors complained of have been called to the Court's attention as required by the Federal Rules of Criminal Procedure, and the said errors are hereby called to the Court's attention so that it may correct the errors complained of upon a new trial.

The said defendant complains of the following errors:

1. The Court erred in denying and overruling the motion of this defendant to dismiss the Indictment and each of the counts thereof.

2. The Court erred in denying defendant's Motion to Require the Government to Elect upon which one of the two separate counts set forth in the Indictment it intended to proceed.

3. The Court erred in denying defendant's motion to proceed upon the trial of a single offense, and in permitting the Government to split a single crime or offense into two separate offenses.

167] 4. The Court erred in denying defendant's motion for Severance and for a separate trial.

5. The Court erred in denying the motion of this defendant for inspection of the Grand Jury Minutes and Proceedings and failing and refusing to permit the inspection of said proceedings by his Attorneys of Record.

6. The Court erred in denying defendant's alternative motion to strike.

7. The Court erred in denying and refusing defendant's motion and request for list of Government witnesses.

8. The Court erred in denying and refusing the request of defendant for a list of the witnesses which the Government intended to use upon trial for the purpose of making proper voir dire examination of the Jury panel.

9. The Court erred in denying and overruling the separate motion of this defendant for Acquittal made at the conclusion of the Government's case.

10. The Court erred in denying and overruling the motion of this defendant for Acquittal made at the conclusion of all the evidence, both sides having rested.

11. The verdict of the Jury is contradictory, inconsistent and demonstrates on its face that the Jury was misled and failed to understand the law or instructions of the Court and that the verdict is a result of bias, passion and prejudice and not a finding upon the evidence

12. The verdict of the Jury upon its face and as a matter of law demonstrates that the Jury returned convictions based upon the commission of the substantive offenses which it was charged was the object of the Conspiracy charged, and not upon the crime charged in the Indictment.

168] 13. The verdict of the Jury is contrary to the weight of the evidence.

14. The verdict of the jury is contrary to the law.

15. The verdict of the Jury is contrary to the instructions of this Court.

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16. The verdict of the Jury is not supported by substantial evidence.

17. As a matter of law the evidence adduced and all inferences reasonably to be drawn therefrom is not inconsistent with every hypothesis of innocence and is insufficient to support the verdict of the Jury.

18. As a matter of law the evidence in its entirety does not show the commission of any offense against the laws of the United States of America by this defendant.

19. The Court erred in admitting testimony of witnesses over objections of the defendant, properly interposed at time of trial relating to prostitution and gambling.

20. The Court erred in denying and overruling the motion of the defendant to strike all of the testimony of all witnesses dealing with prostitution and gambling for the reason that it was wholly immaterial and irrelevant to the conspiracy charged and was finally so found and held to be by this Court.

21. The Court erred in denying and overruling the various motions for mistrial occasioned by the erroneous reception of testimony dealing with prostitution and gambling which was fundamentally so inflamatory and highly prejudicial that it deprived said defendant of and prevented a fair trial for said defendant.

22. The Court erred in instructing the Jury that there was sufficient evidence to show the formation of a Conspiracy on or about March, 1956.

[The language of paragraphs 23 and 23a to e and paragraphs 24 and 24a to g is substantially identical with the language of paragraphs 26 and 26a to e and paragraphs 27 and 27a to g of the motion of Paul J. Livingston et al. for a new trial which appears at page 87 .]

172] 25. The Court erred in overruling the various motions for mistrial made by defendants at and during the trial for the reasons stated in the said motions for a mistrial.

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26. The Court erred in instructing the Jury and commenting on the evidence in advising the Jury that in connection with their consideration of the testimony of the bootlegger Archie Moore that the defendant wholly failed to rebut the testimony in any manner and that the evidence remained uncontradicted. That by reason of said comment the defendant was substantially prejudiced and deprived of a fair trial as such statement had the effect in the minds of the Jury and was in fact a comment on the fact that the defendant had not taken the witness stand in his own defense; all in violation of the Constitutional rights of this said defendant.

27. The Court erred in submitting the case as to this defendant to the Jury for the reason that as a matter of law there was no evidence adduced sufficient to sustain a verdict against this defendant for the commission of any offense against the United States of America.

28. The Court erred in submitting the case to the Jury because there was a total failure of proof as to this defendant of any aiding, abetting, or assistance, to any persons in the importation of intoxicating liquor into the State of Oklahoma, or into the City of Tulsa, Oklahoma; any participation therein or any agreement to effect such purpose or object; but the evidence on the part of the Government conclusively shows that the defendant did nothing in furtherance of the alleged conspiracy and further that there was no evidence that the said defendant entered into the alleged unlawful agreement, nor is there any evidence that he was ever informed or that he knew of the existence of the alleged unlawful agreement and combination.

29. Errors of law occurring at the trial which were excepted to by the defendant.

Hall & Graham
By O.B. Graham, Sr.
Attorneys for Defendant
Oliver B. Stephens

Filed April 30, 1957

Jay L. Jones et al. vs. United States of America

174] Motion For New Trial

Come now Paul Donley Rucker and Elmer Lee Oakley and move this Honorable Court to vacate and set aside the verdict rendered herein on the 26th day of April, 1957, the said Defendants being aggrieved thereby and to grant a new trial for the following causes which affect materially the substantial rights of said Defendants:

I That the verdict rendered herein is contrary to the evidence produced by the Government.

II. That the verdict is contrary to and in disregard of the Court's instruction.

III. The Court allowed the Government to introduce prejudicial evidence and testimony objected to by the Defendants.

IV. That the verdict is a result of prejudice on the part of the jury. Said prejudice and passion being brought on by the Government by introducing highly prejudicial and inflammatory testimony in connection with the business of operating houses of prostitution in the City of Tulsa, Oklahoma.

V. That as to these Defendants there is no evidence which the jury could rely on to return a verdict of guilty as to Count One of the Indictment.

VI. Error of the Court in instructing the jury and said errors being pointed out to the Court prior to the deliberation of the jury.

175]

VII. Error of the Court in overruling requests that the Government be required to furnish a list of witnesses to be used in chief prior to the date of the trial.

VIII. Error of the Court in allowing evidence to be produced by the Government in connection with gambling activities of certain persons in the City of Tulsa, Oklahoma.

IX. Error of the Court in commenting on the evidence to the prejudice and injury of your moving Defendants.

X. Error of the Court in not instructing the jury that there were two or three independent conspiracies existing according to the Government's evidence and the evidence did not in any way connect your moving Defendants with either of the conspiracies and that the Court should have sustained a motion for judgment of acquittal.

Paul Donley Rucker and Elmer Lee Oakley, Defendants
By Paul Cotcher
Ernest R. Anthis, Jr.
Attorneys for Defendants

Filed April 30, 1957

176] Common Separate Motions of Defendants Jay L. Jones, Jack Gott and William Thomas Peterson

Come now the defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, individually and separately and each filing this as a separate motion for a new trial respectfully moves of this Honorable Court to vacate and to set aside the verdict of the Jury rendered herein on the 26th day of April, 1957, and to grant to these defendants, and each of said defendants, a new trial for the reasons below set forth which affected substantially and prejudicially the rights of these defendants and which constitutes prejudicial error. These defendants respectfully show this Court that this Court's attention as to each of the matters below stated was at the time of trial, and prior thereto, directed to the Court's attention by proper motions, objection to introduction of testimony, motions to strike, motions for a mistrial and by exception to the Court's ruling when and required by the Federal Rules of Criminal Procedure and that said error is hereby and by this motion directed to the Court's attention so that this Court may be fully apprized of the same and the error corrected upon a new trial.

[The language of paragraphs 1 to 31 inc. of the motion is substantially identical with the motion of Paul J. Livingston et al. for a new trial which appears at page 87.]

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182] 32. The Court erred in submitting the case to the Jury for the reason that as a matter of law and upon all of the evidence adduced there was and is a total and fatal variance between the crime charged in the Indictment, to-wit: an alleged conspiracy entered into on or about January 1, 1948, to commit certain offenses against the United States, which these defendants allegedly joined as follows:

183]

Jay L. Jones	May 1, 1953
Jack Gott	January 1, 1949
William Thomas Peterson	July 1, 1951

of which the proof totally failed; and the alleged conspiracy submitted by the Court to the Jury, to-wit, a conspiracy allegedly entered into on or about March, 1956 as to which there is no evidence of the knowledge or participation of these defendants.

33. The Court erred in submitting the case as to these defendants to the Jury for the reason that as a matter of law there was no evidence adduced sufficient to sustain a verdict against these defendants for the commission of any offense against the United States of America.

34. The Court erred in submitting the case to the Jury because there was a total failure of proof as to these defendants of any aiding, abetting or assistance, to any persons in the importation of intoxicating liquor into the State of Oklahoma, or into the City of Tulsa, Oklahoma; any participation therein or any agreement to effect such purpose or object.

35. The Court erred in submitting the case to the Jury as to these defendants because under the evidence, as to these defendants, as a matter of law, no offense against the laws of the United States was or could by any action of said defendants be committed.

36. That the ruling of the Court permitting the Government to split a single offense, namely a conspiracy to commit an offense or offenses against the United States, into two separate crimes, or alternatively, by permitting the charge in the Indictment and the submission to the Jury to stand on two separate counts, which the Court submitted as independent crimes, and

advising the Jury that a verdict could be returned upon both or either of said counts, was in fact and in effect the submission to the Jury of a "Special verdict" or of "special interrogatories", which is an "innovation in American Criminal practice", a departure from established due process of law in criminal cases, which substantially effected the rights of these defendants according to law and the Constitution of the United States of America, constitutes a fatal error, and a denial of fundamental due process.

184] 37. The Court erred in submitting to the Jury any form of verdict other than "guilty" or "not guilty". That the Conspiracy charged was a single and indivisable offense, to which the defendants could enter only one plea "not guilty" and to which the Jury could, under the law, return only one response.

38. The Court erred in submitting to the Jury a form of verdict permitting the Jury to return a verdict of "guilty of one-half of the offense charged."

39. The verdict of the Jury purporting to find these defendants guilty of one-half of the offense charged in the Indictment and not guilty of one-half of the offense charged in the Indictment is contradictory,and vitiates the verdict as a matter of law; such being not a verdict under the law and as guaranteed by the Constitution of the United States and the due process of law.

Hickman & Hickman
By Frank Hickman
Attorneys for Defendants
Jay L. Jones, Jack Gott and
William Thomas Peterson.

Filed April 29, 1957

185] Motion For a New Trial

Comes now the defendant, John E. McAfee, and moves the Court to set aside and hold for naught the verdict of the jury herein rendered on the 26th day of April, 1957, and grant a new

trial for the following causes, which affect materially the substantial rights of the defendant John E. McAfee in said trial:

I. Error of the Honorable Trial Court in overruling said defendant's motion to dismiss counts 1 and 2 of the indictment.

II. Error of the Honorable Trial Court in overruling said defendant's motion for a Bill of Particulars.

III. Error of the Honorable Trial Court in overruling said defendant's motion for a mistrial presented to this Honorable Court at the conclusion of the Government's evidence.

IV. Error of the Honorable Trial Court in overruling said defendant's motion for a mistrial when a Government witness testified as to said defendant's gambling activities. Such motion being predicated upon the fact that such gambling activities was not a United States Federal offense, and that said defendant's character and reputation had never been placed at issue and that the admission of such evidence against said defendant was highly
186] prejudicial to his rights under the Constitution of the United States.

V. Error of the Honorable Trial Court in allowing and permitting the Government to introduce testimony with respect to prostitution and gambling when such activities were not Federal offenses, which were duly and timely objected to and excepted to by said defendant.

VI. Error of the Honorable Trial Court on questions of law arising during the course of the trial, which were duly and timely objected to and excepted to by said defendant.

VII. Error of the Honorable Trial Court in overruling said defendant's motion for a judgment for <u>acquital</u> at the conclusion of the Government's evidence.

VIII. Error of the Honorable Trial Court in refusing to give said defendant's requested instructions Nos. 1 to 29 inclusive.

IX. That the verdict of the jury was contrary to the law and the evidence.

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X. That the evidence introduced by the Government was insufficient to support any offense against the United States Government and to support the verdict of the jury thereunder.

XI. That the evidence of the United States Government failed to establish any sustained, continuous general conspiracy, as alleged in said indictment, wholly insufficient to support the verdict of the jury.

XII. Error of the Honorable Trial Court in allowing and permitting the jury to consider as a whole Government evidence which tended to show several distinct, separate and disconnected conspiracies.

187]

XIII. That the evidence of the Government was highly prejudicial and inflamatory to the minds of the jurors, in that it reflected corruption in the Tulsa City Police Department with respect to pay-offs and protection for prostitution and gambling when such activities were not offenses against the United States Government.

XIV. That the verdict of the jury was based upon passion and prejudice and was not supported by the law or the evidence.

Elmore A. Page
Attorney for Defendant,
John E. McAfee.

Filed April 29, 1957

188] Judgment, Bernard Neil Williams

On this 24th day of April, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Paul Gotcher.

It is adjudged that the defendant having entered his plea of not guilty of the offenses of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors

into the State of Oklahoma in violation of Section 1262 of Title 18; and carry on the business of wholesale and retail liquor dealer and wilfully fail to pay the special taxes therefor, in violating of Sec. 5691 of Title 26, U.S.C., as charged in Counts One and Two of the Indictment; and the Government having presented its evidence, the defendant moved for acquittal because of insufficient evidence and the motion for acquittal was sustained.

It is adjudged that the defendant, Bernard Neil Williams, is discharged and his bond exonerated.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U. S. Attorney

Royce H. Savage,
United States District Judge.

Filed April 24, 1957

189] Judgment, Nolen Bulloch

On this 24th day of April, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Truman B. Rucker, W.C. Henneberry and Samuel A. Boorstin.

It is adjudged that the defendant having entered his plea of not guilty of the offenses of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18; and carry on the business of wholesale and retail liquor dealer and wilfully fail to pay the special taxes therefor, in violation of Sec. 5691 of Title 26, U.S.C., as charged in Counts One and Two of the Indictment; and the Government having presented its evidence, the defendant moved for acquittal because of insufficient evidence, and the motion for acquittal was sustained.

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It is Adjudged that the defendant, Nolen Bulloch, is discharged and his bond exonerated.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed April 24, 1957

190] Judgment, Clifford E. Wells

On this 24th day of April, 1957 came the attorney for the government and the defendant appeared in person and by counsel, L. Keith Smith.

It is Adjudged that the defendant having entered his plea of not guilty of the offenses of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18; and carry on the business of wholesale and retail liquor dealer and wilfully fail to pay the special taxes therefor, in violation of Sec. 5691 of Title 26, U.S.C., as charged in Counts One and Two of the Indictment; and the Government having presented its evidence, the defendant moved for acquittal because of insufficient evidence and the motion for acquittal was sustained.

It is Adjudged that the defendant, Clifford E. Wells, is discharged and his bond exonerated.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Jay L. Jones et al. vs. United States of America

Filed April 24, 1957

191] Judgment and Commitment, Theopolis Scoggins

On the 26th day of April, 1957 càme the attorney for the government and the defendant appeared in person and by counsel, Gordon L. Patten.

It is Adjudged that the defendant has been found not guilty of the offenses of having violated Title 18, U S C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18; and carry on the business of wholesale and retail liquor dealer and wilfully fail to pay the special taxes therefor, in violation of Sec. 5691 of Title 26, U.S.C., as charged in Counts One and Two of the Indictment

It is Adjudged that the defendant is not guilty.

It is Adjudged that the defendant is hereby discharged and his bond exonerated

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant

Approved as to form:

B Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge

Filed April 26, 1957

192] Judgment and Commitment, Jay L Jones

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Frank Hickman.

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It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of
Count One: One (1) Year and pay a fine in the sum of One Thousand Dollars ($1,000.00), and that he be further imprisoned until payment of the fine or until he is otherwise discharged by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

193] Judgment and Commitment, Paul J. Livingston

On this 3rd day of May, 1957, came the attorney for the government and the defendant appeared in person and by counsel, Irvine E. Ungerman.

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It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S C., Sec 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Cout One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of
Count 1: One (1) Year, and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

194] Judgment and Commitment, Jack Gott

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Frank Hickman.

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It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C , Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Count 1: One (1) Year and pay a fine in the sum of One Thousand ($1,000 00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

195] Judgment and Commitment, Leo Brantley Jackson

On this 3rd day of May, 1957, came the attorney for the government and the defendant appeared in person and by counsel, Irvine E. Ungerman

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It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Court One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year on Count One.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

196] Judgment and Commitment, Johnny E. Cole

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Irvine E. Ungerman.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense

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of violating Title 18, U.S C , Sec 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year on Count One.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

197] Judgment and Commitment, James Richard Harp

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Irvine E Ungerman.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he

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has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year on Count One.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H Savage,
United States District Judge.

Filed May 3, 1957

198] Judgment and Commitment, William Thomas Peterson

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Frank Hickman.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

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It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year on Count One.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

199] Judgment and Commitment, Oliver B Stephens

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Amos Hall.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

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It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year on Count One.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

200] Judgment and Commitment, John E. McAfee

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Elmore A. Page.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Count One - One (1)

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Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S.Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

201] Judgment and Commitment, T. Martin Edwards

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person by counsel, Pat Malloy and Rooney McInerney.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offenses of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18; and carry on the business of wholesale and retail liquor dealers and wilfully fail to pay the special taxes therefor, in violation of Sec. 5691 of Title 26, U.S.C., as charged in Counts One and Two of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized represen-

tative for imprisonment for a period of:

Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

Count Two: One (1) Year, to run concurrently with the sentence in Count One.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

202] Judgment and Commitment, Elmer Lee Oakley

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Paul Gotcher.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized represen-

tative for imprisonment for a period of:
Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the tine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

203] Judgment and Commitment, John David Hood

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Pat Malloy and Rooney McInerney.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offenses of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18; and carry on the business of wholesale and retail liquor dealers and wilfully fail to pay the special taxes therefor, in violation of Sec. 5691 of Title 26, U.S.C., as charged in Counts One and Two of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted.

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It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:

Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000 00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

Count Two: One (1) Year, to run concurrently with the sentence in Count One.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

204] Judgment and Commitment, F. Lee Johnson

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Pat Malloy and Rooney McInerney.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

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It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:
Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

205] Judgment and Commitment, Paul Donley Rucker

On this 3rd day of May, 1957 came the attorney for the government and the defendant in person and by counsel, Paul Gotcher.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

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It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:
Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

206] Judgment and Commitment, Fred A. Griffing

On this 3rd day of May, 1957 came the attorney for the government and the defendant appeared in person and by counsel, Pat Malloy and Rooney McInerney.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

Jay L. Jones et al. vs. United States of America

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:
Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage,
United States District Judge.

Filed May 3, 1957

207] Judgment and Commitment, Don Gray

On this 3rd day of May, 1957 came the attorney for the government and the defendant in person and by counsel, A.L. Shortridge.

It is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of guilty of the offense of violating Title 18, U.S.C., Sec. 371 by conspiring to wilfully import intoxicating liquors into the State of Oklahoma in violation of Section 1262 of Title 18, as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is Adjudged that the defendant is guilty as charged and convicted in Count One.

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It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:
Count One: One (1) Year and pay a fine in the sum of One Thousand ($1,000.00) Dollars, and that he be further imprisoned until payment of the fine or until he is otherwise discharged as provided by law.

It is Adjudged that the defendant is not guilty as charged in Count Two.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Approved as to form:

B. Hayden Crawford
U.S. Attorney

Royce H. Savage
United States District Judge.

Filed May 3, 1957

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Notice of Appeal of Defendant
And Appellant Don Gray

Comes now Defendant and Appellant Don Gray and hereby appeals to the United States Court of Appeals for the Tenth Circuit from the Judgment and Sentence entered herein on the 3rd day of May, 1957 and from the Order entered herein on the 3rd day of May, 1957, overruling the Motion of Defendant and Appellant for a New Trial in this cause, and respectfully shows the Court:

1. Name and address of Appellant: Don Gray, Joplin, Missouri.

2. Name and address of attorneys for Appellant: Irvine E. Ungerman, Charles A. Whitebook, Manuel Grabel, Maynard I. Ungerman, William Leiter, and R. James Unruh, Attorneys at Law, 625 Wright Building, Tulsa, Oklahoma, and A.L. Shortridge,

Jay L. Jones et al. vs. United States of America

Attorney at Law, P.O. Box 299, 312 Wall, Joplin, Missouri.
Of Counsel: Ungerman, Whitebook, Grabel & Ungerman, 625 Wright Building, Tulsa, Oklahoma.

3. Offense: Violation of Title 18, U.S. Code, Section 371.

4. Concise statement of Judgment or Order, giving date, and any sentence: Judgment of Conviction of Count I of Indictment, charging conspiracy to commit an offense in two separate Counts, after plea of not guilty, upon the verdict of the
209] jury of guilty of Count I and not guilty of Count II, was entered May 3, 1957, and Defendant and Appellant was sentenced to serve a term of one year and to pay a fine of $1,000.00. An Order was further entered by the Court on May 3, 1957, overruling the Motion of Defendant and Appellant for a New Trial.

5. Name of institution where now confined, if not on bail: Defendant and Appellant is on bail in the amount of $1,000.00.

I, Don Gray, Defendant and Appellant, hereby appeal to the United States Court of Appeals for the Tenth Circuit from the aforesaid Judgment, Sentence and Order.

Dated the 7th day of May, 1957.

Irvine E. Ungerman,
Charles A. Whitebook,
Manuel Grabel,
Maynard I. Ungerman,
William Leiter,
R. James Unruh,
A.L. Shortridge,
By (illegible) E. Ungerman
Attorneys for Defendant and
Appellant Don Gray

Of Counsel: Ungerman, Whitebook, Grabel
& Ungerman,
625 Wright Building,
Tulsa, Oklahoma

Filed May 7, 1957

Jay L. Jones et al. vs. United States of America

[Notices of appeals of Fred A. Griffing, Paul Donley Rucker, F. Lee Johnson, John David Hood, Elmer Lee Oakley, T. Martin Edwards, John E. McAfee, Oliver B. Stephens, William Thomas Peterson, James Richard Harp, Johnny E. Cole, Leo Brantley Jackson, Jack Gott, Paul J. Livingston and Jay L. Jones were filed May 7, 1957.]

[By order of May 27, 1957, the time for docketing the causes in the Court of Appeals was extended to August 1, 1957.]

247] MINUTE SHEET. CRIMINAL NO. 12,999

INDICTMENT Filed: March 15, 1957 Charge Conspire to violate T. 18, USC, Sec. 1262 and T. 26, USC, Sec. 5691 (Sec. 3253 prior to 1-1-55) Importation of liquor - carry on business of liquor dealers without paying tax, et cetera

Bonds:

March 22, 1957 Defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, each present in person and each represented by Frank Hickman. Defendants, Paul J. Livingston, Leo Brantley Jackson, Johnny E. Cole and James Richard Harp, each present in person and each represented by Irvine E. Ungerman. Defendant, Oliver B. Stephens, present in person and represented by Amos T. Hall and O.B. Graham, Jr. Defendants, Clifford E. Wells, T. Martin Edwards, John David Hood and F. Lee Johnson, each present in person and each represented by Pat Malloy and Rooney McInerney. Defendant, Nolen Bulloch, present in person and represented by Truman B. Rucker, W.C. Henneberry and Samuel A. Boorstin. Defendant, John E. McAfee, present in person and represented by Elmore A. Page. Defendant, Theopolis Scoggins, present in person and represented by Gordon L. Patten. Defendants, Elmer Oakley, Paul Donley Rucker and Bernard Neil Williams, each present in person and each represented by Paul Gotcher. Defendant, Don Gray, present in person and represented by W.C. Henneberry for A.L. Shortridge. Defendant, Fred A. Griffing, present in person but no represented by counsel. THE FOLLOWING MOTIONS BEING FILED IN OPEN COURT: Motion of the defendant Oliver Stephens, to dismiss the indictment;

248] motion of the defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and Jim R. Harp, for bill of particulars; separate motion of defendants, Paul J. Livingston, Leo Brantley Jackson, Johnny E. Cole and James Richard Harp, for a continuance; motion of defendant, Nolen Bulloch, to dismiss the indictment; motion of defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp, to elect as between counts; motion of defendant, Nolen Bulloch, for continuance; and separate motion of defendant, Don Gray, to dismiss, to elect, et cetera. IT IS ORDERED THAT the motion of defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, for bill of particulars, motion of defendants Jay L. Jones, Jack Gott and William Thomas Peterson, to elect; motion of defendant, Nolen Bulloch, to elect which Count of the indictment the government is going to proceed to trial and to dismiss the other count; motion of defendant, Nolen Bulloch, to elect which Criminal Case the government is going to proceed to trial; separate motion of the defendant, Nolen Bulloch, to inspect Grand Jury records, et cetera; motion of defendant, Nolen Bulloch, for bill of particulars; motion of defendants, Jay L. Jones, Jack Gott and William Thomas Peterson to dismiss the indictment; motion of defendant, John E. McAfee, to dismiss; motion of defendants, Clifford E. Wells, John David Hood, T. Martin Edwards, and F. Lee Johnson, to force the United States of America to elect the indictment to prosecute under; motion of defendants, Clifford E. Wells, John David Hood, T. Martin Edwards and F. Lee Johnson, for supplemental bill of particulars; motion of the defendant Oliver Stephens, to dismiss the indictment; motion of the defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and Jim R. Harp, for bill of particulars; separate motion of defendants, Paul J. Livingston, Leo Brantley Jackson, Johnny E. Cole and James Richard Harp, for a continuance; motion of defendant, Nolen Bulloch to dismiss the indictment; motion of defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp, to dismiss the indictment; motion of defendants Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James R. Harp to elect as between counts; motion of defendant, Nolen Bulloch for continuance; and separate

motion of defendant, Don Gray, to dismiss, to elect, et cetera; BE AND THEY ARE EACH HEREBY OVERRULED. Each of the defendants, except Fred A. Griffing, make an oral motion for list of witnesses to be used by the government; defendants granted until Monday, March 25, 1957 at 9:30 A.M., within which to file motions for severance of trial. IT IS ORDERED that the decision on the motion of the defendants for list of witnesses to be used by the government and hearing on motions of the defendants for severance of trial, be set for Tuesday, March 26, 1957 at 9:30 A.M. Defendants are each arraigned, each state that they have received copies of the indictment and each waive the reading thereof: Jay L. Jones enters a plea of NOT GUILTY as to each of Counts 1 and 2; Paul J. Livingston enters a plea of NOT GUILTY as to each of Counts 1 and 2; Jack Gott enters pleas of NOT GUILTY as to each of Counts 1 and 2; Leo Brantley Jackson enters pleas of NOT GUILTY as to each of Counts 1 and 2; Johnny E. Cole enters pleas of NOT GUILTY as to each of Counts 1 and 2; James Richard Harp enters pleas of NOT GUILTY as to each of Counts 1 and 2; William Thomas Peterson enters pleas of NOT GUILTY as to each of Counts 1 and 2; Oliver B. Stephens enters pleas of NOT GUILTY as to each of Counts 1 and 2; Clifford E. Wells enters pleas of NOT GUILTY as to each of Counts 1
249] and 2; Nolen Bulloch enters pleas of NOT GUILTY as to each of Counts 1 and 2; John E. McAfee enters pleas of NOT GUILTY as to each of Counts 1 and 2; Theopolis Scoggins enters pleas of NOT GUILTY as to each of Counts 1 and 2; T. Martin Edwards enters pleas of NOT GUILTY as to each of Counts 1 and 2; Elmer Lee Oakley enters pleas of NOT GUILTY as to each of Counts 1 and 2; John David Hood enters pleas of NOT GUILTY as to each of Counts 1 and 2; F. Lee Johnson enters pleas of NOT GUILTY as to each of Counts 1 and 2; Paul Donley Rucker enters pleas of NOT GUILTY as to each of Counts 1 and 2; Fred A. Griffing enters pleas of NOT GUILTY as to each of Counts 1 and 2, and states he will employ counsel; Bernard Neil Williams enters pleas of NOT GUILTY as to each of Counts 1 and 2; and Don Gray enters pleas of NOT GUILTY as to each of Counts 1 and 2. It is adjudged that this case be and it is hereby set for TRIAL as to each of the defendants on Tuesday, April 16, 1957 at 9:30 A.M.

(Royce H. Savage - Judge)n

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March 26, 1957 Minute Order: It is ordered that the oral motion of all the defendants for list of witnesses to be used by the government; the motion of defendants, Elmer Lee Oakley, Bernard Neil Williams and Paul Donley Rucker, for separate trial; the motion of defendants, Paul J. Livingston, Leo Brantley Jackson, John E. Cole and James Richard Harp for severance and for a separate trial; the motion of the defendant, Nolen Bulloch, for severance and separate trial; the motion of the defendant, Theopolis Scoggins, for separate trial; the request for the name of witnesses to be used by the government against the defendant Theopolis Scoggins; the motion of the defendant, Clifford E. Wells, for severance; and the motion of the defendants, John David Hood, T. Martin Edwards and F Lee Johnson, for severance, be and they are each hereby overruled.

(Royce H. Savage - Judge)n

April 16, 1957 Case called for trial, defendants, Jay L. Jones, Jack Gott and William Thomas Peterson, each present in person and each represented by Frank Hickman; defendants, Paul J. Livingston, Leo Brantley Jackson, Johnny E. Cole and James Richard Harp, each present in person and each represented by Irvine E. Ungerman; defendant, Oliver B. Stephens, present in person and represented by Amos T. Hall; defendant, Clifford E. Wells, present in person and represented by L. Keith Smith; defendant, Nolen Bulloch, preaent in person and represented by Truman B. Rucker, W.C. Henneberry and Samuel A. Boorstin; defendant, John E. McAfee, present in person and represented by Elmore A. Page; defendant, Theopolis Scoggins, present in person and represented by Gordon L. Patten; defendants T. Martin Edwards, John David Hood, F. Lee Johnson and Fred A. Griffing, each present in person and each represented by Pat Malloy, Rooney McInerney and N.E. McNeil Jr., defendants, Elmer Lee Oakley, Paul Donley Rucker and Bernard Neil Williams, each present in person and each represented by Paul Gotcher; defendant, Don Gray, present in person and represented by Paul Gotcher. Government represented by B. Hayden Crawford, Charles H. Froeb, Russell H. Smith and John Morley. Parties announce ready for trial. Jury sworn as to qualifications. Jury of 32 persons empaneled. Government challenges - Harold Dewey Brown, Jesse Lee Tincup, Glenn F. Echols, Robert Lee Gilliland, Faye Opal McKinney, and Francis Emil Stenger. Defendants challenge -

Charles F. Grable, Mrs. Mary Harris Hatch, Mrs. Jessie
250] M. Hunter, Mrs. Carolyn L. Buttolph, Freddie F. Jordan, Mr. Loreine C. Dietrich, Thurmond James Archer, William Edward Sanders, Earl Burton, Mrs. Mollie H. Culp, Lloyd Ernest Henkel and Walter Loy Judkins. The following jurors were sworn to try the case - Balm Benton Cox, James M. Goodwin, Joe Lee Grace, Herbert H. Bussman, Robert Lee Ellis, Paul Houston Johnson, Henry B. Ferguson, William Andrew Dodd, Allin Luther Lynch, Emery Allen Cook, Mrs. Florence G. Davis, Virgil H. Prukey, Byron William Jones and Leslie Leroy Brown. Byron William Jones designated as first alternate juror; and Leslie Leroy Brown designated as second alternate. Opening statement made by the government. Court recessed until 1:30 P.M., jury admonished. 9:30 to 12:00, 2 1/2 hrs.

(Royce H. Savage - Judge)n

1:30 P.M. Court in session, defendants each present in person and represented as heretofore, government represented as heretofore. All jurors in the box. Opening statement made by Truman B. Rucker on behalf of the defendant, Nolen Bullock, other defendants reserve their opening statements. Government witnesses sworn. Government's witnesses: John C. Ritter, Toby Young, Roy Farley, Mrs. Cleo Epps, Roy D. Hines, Harvey Pew, Carl D. Harp, E. Lawton Bragg, Billie Popivich, John Bill Edwards, Lullu Anderson, Cecil Boone, Court recessed until 9:30 A.M., Wednesday, April 17, 1957, jury admonished. 1:30 to 5:00, 3 1/2 hrs.

(Royce H. Savage - Judge)n

April 17, 1957 Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Roy Hines, Harry Miller, Robert Bates, Herschel Mathis, Lee Uto, Ed Duweese, Bill Curley, Archie Moore, Ralph Lashbrook, Edwin S. Burns, Ralph F. Chance, Gene Overture, Glenn Sterrett. Court recessed until 1:30 P.M., jury admonished. 9:30 to 12:00, 2 1/2 hrs.

(Royce H. Savage - Judge)n

1:30 P.M. Court in session, defendants each present in person and represented by counsel as heretofore, government

represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Glenn Sterrett, Robert E. Hines, E.S. Gibson, John F. Smith, Robert W. Glazer, Willie L. Lawson, Herschel Mathis, Archie Moore, Monie Dodson, Robert Bates, Herschel Mathis, Bill Edwards, James Johnson, Larry Hamilton, Mrs. Lefty Anderson, Alva D. Miller, Jack Edwards, Delbert W. Arms, Glenn Sterrett, Archie Moore, James F. O'Brien, Bob Cleveland, Fred Fowler. Court recessed until 9:30 A.M., Thursday, April 18, 1957, jury admonished. 1:30 to 5:00, 3 1/2 hrs. (Royce H. Savage - Judge)n

April 18, 1957 Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Cleo Epps, Cecil Boone, Bob Brannan, E.C. Carter, Carl Harp, Charles J. Heinen, James G. Carroll, James F. Gaulding. Court recessed until 1:30 P.M., jury admonished. 9:30 to 12:00, 2 1/2 hrs. (Royce H. Savage - Judge)n

1:30 P.M. Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Mrs. H.R. "Brick" Fowler, Don Downing, Dan Graham, Howard Edmondson, Glenn Brown, John Bill Edwards; Court recessed until 9:30 A.M., Friday, April 19, 1957, jury admonished. 1:30 to 5:00, 3 1/2 hrs. (Royce H. Savage - Judge)n

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April 19, 1957 Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: John "Bill" Edwards. Court recessed until 1:30 P.M., jury admonished. 9:30 to 12:00, 2 1/2 hrs. (Royce H. Savage - Judge)n

1:30 P.M. Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: John "Bill" Edwards, Charles J. Heinen, Sid Steen, Charles

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Hurlinger. Government's witness, E.C. "Red" Carter recalled by defendants government's witnesses: Glen Brown, Richard Carter, Charles Bruner, William Patrick O'Neal, Archie Moore, Paul Smith. Court recessed until 9:30 A.M., Monday, April 22, 1957, jury admonished. 1:30 to 5:00, 3 1/2 hrs. (Royce H. Savage - Judge)n

April 22, 1957 Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Howard Edmondson, Robert Scott, Herbert Hunter, Pauline Lambert, Calvin Polk, Janis Anchor Guine, Boots King, Venus Schaffer, Beverly Clevor, Shirley Ann Duncan, Joyce Adams. Court recessed until 1:30 P.M., jury admonished. 9:30 to 12:00, 2 1/2 hrs. (Royce H. Savage - Judge)n

1:30 P.M. Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Venus Schaffer, Pant Knode, C.L. Ward, William H. Hulette, Chalma Weekly, Robert Henson, Lee Prall, Kenneth Pearson, Earnest McCarty, James F. O'Brien, Archie Moore, Ben Bly, Bill Massey, Paul H. Vawter, James Clark Warren. Court recessed until 9:30 A.M., Tuesday, April 23, 1957, jury admonished. 1:30 to 5:00, 3 1/2 hrs. (Royce H. Savage - Judge)n

April 23, 1957 Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: James D. Pitts, Dave Massey, Bob Massey, Bill Edwards, Chester Barrentine, Alva Miller, Charles Fetter, George Mose, Marshall Sharp, William J. Gibson, Court recessed until 1:30 P.M., Jury admonished. 9:30 to 12:00, 2 1/2 hrs. (Royce H. Savage - Judge)n

1:30 P.M. Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with government's witnesses: Ben Bly, Danny Saul, Joe McGuire, Benny Stuart, James Robert Bivens, R.S. Hubbard, Charles L. Burris, Erwin Spybuck,

Quincy Jacobs, Jr., W.T Parriott, Joe McGuire, Glenn Brown, Clifford Rogers, John Bill Edwards. Government rests. Jury admonished and excused until 9:30 A.M., Wednesday, April 24, 1947. Defendant Don Gray files in open court, motions for judgment of acquittal as to Counts 1 and 2; all other defendants make oral motions for judgment of acquittal as to Counts 1 and 2. Court recessed until 9:30 A.M., Wednesday, April 24, 1957. 1:30 to 5:00, 3 1/2 hrs. (Royce H. Savage - Judge)

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April 24, 1957 Court in session, defendants each present in person and represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with the government being granted permission to re-open. Government's witness, J.D. Pitts. Government rests. Each of the defendants renew their motions for acquittal. It is ordered that the motions of the defendants, Clifford E. Wells, Nolen Bulloch and Bernard Neil Williams, for judgment of acquittal be and they are hereby sustained and the defendants, Nolen Bulloch, Clifford E. Wells and Bernard Neil Williams, be and they are each acquitted, they are each discharged and their bonds are hereby exonerated. It is ordered that the motions of the defendants, Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny E. Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, John E. McAfee, Theopolis Scoggins, T. Martin Edwards, Elmer Lee Oakley, John David Hood, F. Lee Johnson, Paul Donley Rucker, Fred A. Griffing and Don Gray for judgment of acquittal be and they are each overruled. These 17 defendants each move for mistrial, and it is ordered that the motions of the remaining (17) defendants for a mistrial are each hereby overruled. Defendants, Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny E. Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, John E. McAfee, Theopolis Scoggins, T. Martin Edwards, Elmer Lee Oakley, John David Hood, F. Lee Johnson, Paul Donley Rucker, and Fred A. Griffing, EACH REST. Defendant, Don Gray's witnesses: James F. Gaulding, defendant, Don Gray rests. Government rests, Both sides rest. Defendant, Don Gray, renews his motion for acquittal and it is hereby overruled. Court recessed until 9:30 A.M., Thursday,

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April 25th, 1957, at 9:30 A.M., jury admonished. Government and the defendants file in open court, requested instructions. 9:30 to 11:15, 1 hr. 45 mins.
(Royce H. Savage - Judge)n

April 25, 1957 Court in session, the remaining 17 defendants are each present in person and each represented by counsel, as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with closing arguments being made. Court recessed until 1:30 P.M., jury admonished. 9:30 to 12:00, 2 1/2 hrs.
(Royce H. Savage - Judge)n

1:30 P.M. Court in session, the remaining 17 defendants are each present in person and each represented by counsel as heretofore, government represented by counsel as heretofore. All jurors in the box. Trial continues with closing arguments being made. Jury instructed. The alternate jurors, Byron William Jones and Leslie Leroy Brown were excused and the jury retired to deliberate. Jury returns at 6:30 P.M., the U.S. Marshal is directed to take them to dinner, they are admonished and directed to report back to the jury room at 7:00 and deliberate. 1:30 to 6:30, 5 hrs. 7:00 to 12:00, 5 hrs.
(Royce H. Savage - Judge)n

April 26, 1957 12:45 A.M. Court in session, the 17 defendants are each present in person and each represented by counsel as heretofore, government represented by counsel as heretofore. The jury returns with verdicts findings the defendants: Jay L. Jones GUILTY as to Count One; and NOT GUILT as to Count Two; Jack Gott GUILTY as to Count One, and NOT GUILTY as to Count Two; Leo Brantley Jackson GUILTY as to Count One, and NOT GUILTY as to Count Two; Johnny
253] E. Cole Guilty as to Count One, and NOT GUILTY as to Count Two; Paul J. Livingston GUILTY as to Count One, and NOT GUILTY as to Count Two; James Richard Harp GUILTY as to Count One, and NOT GUILTY as to Count Two; William Thomas Peterson GUILTY as to Count One, and NOT GUILTY as to Count Two; Oliver B. Stephens GUILTY as to Count One, and NOT GUILTY as to Count Two; John E. McAfee GUILTY as to Count One, and NOT GUILTY as to Count Two; T. Martin Edwards GUILTY as to Counts One and Two; Elmer Lee Oakley GUILTY as to Count One, and NOT GUILTY as to Count Two;

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John David Hood GUILTY as to each of Counts One and Two; F. Lee Johnson GUILTY as to Count One, and NOT GUILTY as to Count Two; Paul Donley Rucker GUILTY as to Count One, and NOT GUILTY as to Count Two; Fred A. Griffing GUILTY as to Count One, and NOT GUILTY as to Count Two; Don Gray GUILTY as to Count One and NOT GUILTY as to Count Two; and Theopolis Scoggins NOT GUILTY as to each of Counts One and Two. Verdicts ordered received, read and filed in open court. It is adjudged that the defendant Theopolis Scoggins, is NOT GUILTY on a verdict of NOT GUILTY as to each of Counts One and Two, and he is hereby discharged and his bond exonerated. It is adjudged that the defendants are each released on their present bonds and judgment and sentence is hereby set for Friday, May 3, 1957 at 9:30 A.M. 12:00 to 12:45, 45 mins. (Royce H. Savage - Judge)n

May 3, 1957 The defendants were each present in person, Jay L. Jones, was represented by counsel Frank Hickman; Paul J. Livingston, was represented by counsel Irvine E. Ungerman; Jack Gott, was represented by counsel Frank Hickman; Leo Brantley Jackson, was represented by counsel Irvine E. Ungerman; Johnny E. Cole, was represented by counsel Irvine E. Ungerman; James Richard Harp, was represented by counsel Irvine E. Ungerman; William Thomas Peterson, was represented by counsel Frank Hickman; Oliver B. Stephens, was represented by counsel Amos Hall; John A. McAfee, was represented by counsel Elmore A. Page; T. Martin Edwards, was represented by counsel Pat Malloy and Rooney McInerney; Elmer Lee Oakley, was represented by Paul Gotcher; John David Hood, was represented by Pat Malloy and Rooney McInerney; F. Lee Johnson, was represented by counsel Pat Malloy and Rooney McInerney; Paul Donley Rucker, was represented by Paul Gotcher; Fred A. Griffing, was represented by Pat Malloy and Rooney Mc Inerney; and Don Gray, was represented by counsel A.L. Shortridge. The government was represented by B. Hayden Crawford and John Morley. The various motions of defendants were presented and argued whereopon it was ordered that the separate motions of defendants, Paul J. Livingston, Leo Jackson, John E. Cole and Jim R. Harp for a new trial was overruled; separate motions of defendants Jay L. Jones, Jack Gott and William Thomas Peterson, for a new trial, was overruled; Motion of defendant John E. McAfee for a new

trial was overruled; separate motion of defendant Don Gray for judgment of acquittal or in the alternative for a new trial was overruled; Motion of defendants, Paul Donley Rucker and Elmer Lee Oaklay, in arrest of judgment, was overruled; Motion of defendants Paul Donley Rucker and Elmer Lee Oakley, for a new trial was overruled; Separate motion of defendants John David Hood and T. Martin Edwards for a new trial, was overruled; Separate motions of defendants, Elmer Lee Oakley, F. Lee Johnson, Paul Donley Rucker, and Fred A. Griffing, for a new trial, was overruled; Separate motion of defendant Oliver Stephens, for a new trial, was overruled. It was adjudged that the defendants Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny Lee Cole, James Richard
254] Harp, William Thomas Peterson, Oliver B. Stephens, John McAfee, Elmer Lee Oakley, F. Lee Johnson, Paul Donley Rucker, Fred A. Griffing and Don Gray are guilty as charged in Count One of the Indictment, and defendants John David Hood and T. Martin Edwards are Guilty as charged in Counts Nos. One and Two.

Judgment and Sentence: Jay L. Jones,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, a pay a fine unto the United States in the sum of $1,000.00, on count No. one.

Judgment and Sentence: Paul J Livingston,
Be committed to the custody of the Attorney General or his authorized representative for imprisonement for a period of One (1) Year, and pay a fine unto the United States in the sum of $1,000.00, on count No. one.

Judgment and Sentence: Jack Gott,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, and pay a fine unto the United States in the sum of $1,000.00, on count No. one.

Judgment and Sentence: Leo Brantley Jackson,
Be committed tot the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, on count No. one.

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Judgment and Sentence: Johnny E. Cole,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, on count No. one.

Judgment and Sentence: James Richard Harp,
Be committed to the custody of the Attorney General or his authorized representative for imprisonement for a period of One (1) Year, on count No. one.

Judgment and Sentence: William Thomas Peterson,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, on count No. one.

Judgment and Sentence: Oliver B. Stephens,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, on count No. one.

Judgment and Sentence: John E. McAfee,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, and pay a fine unto the United States in the sum of $1,000.00, on count No. one.

Judgment and Sentence: T. Martin Edwards,
Be committed to the custody of the Attorney General or his authorized representatife for imprisonment for a period of
Count One One (1) Year and pay a fine unto the United States in the sum of $1,000.00.
Count Two One (1) Year, said sentence of confinement shall run concurrently with the sentence in count No. one.

255] Judgment and Sentence: Elmer Lee Oakley,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, and pay a fine unto the United States in the sum of $1,000.00, on Count No. One.

Judgment and Sentence: John David Hood,
Be committed to the custody of the Attorney General or his

authorized representative for imprisonment for a period of Count One - One (1) Year and pay a fine unto the United States in the sum of $1,000.00.
Count Two - One (1) Year, said sentence of confinement shall run concurrently with the sentence imposed on Count No. One.

Judgment and Sentence: F. Lee Johnson,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year and pay a fine unto the United States in the sum $1,000.00, on Count No. 1.

Judgment and Sentence: Paul Donley Rucker,
Be Committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year and pay a fine unto the United States in the sum of $1,000.00, on Count No. One.

Judgment and Sentence: Fred A. Griffing,
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, and pay a fine unto the United States in the sum of $1,000.00, on Count No. One.

Judgment and Sentence: Don Gray
Be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year, and pay a fine unto the United States in the sum of $1,000.00, on Count No. One.

It is Adjudged that the defendants, Jay L. Jones, Paul J. Livingston, Jack Gott, Leo Brantley Jackson, Johnny E. Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, John E. McAfee, Elmer Lee Oakley, F. Lee Johnson, Paul Donley Rucker, Fred A. Griffing and Don Gray are NOT GUILTY as charged in Count Two.

The defendants stating their intent to appeal to the United States Court of Appeals, 10th Circuit, it was ordered that each of them be permitted to stand upon his present bond pending the appeal.

(Royce H. Savage, Judge)

TRANSCRIPT OF RECORD

United States Court Of Appeals

TENTH CIRCUIT

Nos. 5678 to 5693,
inclusive

JAY L. JONES, PAUL J. LIVINGSTON, JACK GOTT, LEO BRANTLEY JACKSON, JOHNNY E. COLE, JAMES RICHARD HARP, WILLIAM THOMAS PETERSON, OLIVER B. STEPHENS, JOHN E. McAFEE, T. MARTIN EDWARDS, ELMER LEE OAKLEY, JOHN DAVID HOOD, F. LEE JOHNSON, PAUL DONLEY RUCKER, FRED A. GRIFFING and DON GRAY,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Volume No. II -- Pages 151 - 298

Appeals From The United States District Court
For The Northern District of Oklahoma

VOL.

II

United States Court Of Appeals

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Appeals From The United States District Court
For The Northern District of Oklahoma

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257] Transcript of Trial Proceedings.

Be It Remembered that on the 16th day of April, A. D., 1957, in the above-designated Court, sitting at Tulsa, Oklahoma, the Honorable Royce H. Savage, United States District Judge, presiding, this above-styled and numbered cause came on regularly for trial.

* * * * *

259] And thereupon, a jury of twelve persons was duly drawn, empaneled and sworn, along with two alternates, to well and truly try the issues joined and a true verdict render according to the law and the evidence, and thereafter, the following proceedings were had to-wit:

The Court: All right, you may be seated. You may make the opening statement for the Government.

Mr. Crawford: Ladies and Gentlemen, you perhaps all have heard of the stage play and then later the motion picture, entitled A Street Car Named Desired. Now the evidence that the Government will introduce in this case will be likened to some extent to that title. In place of a street car we will have a conspiracy. The desire will be shown by the evidence to be the desire for money. Now the track that this street car conspiracy will run on will be the track of time, commencing in about 1948 and then steadily, constantly gaining momentum until 1957. The conspiracy will be likened to a street car for the reason that passengers will board and take part in the conspiracy and some will depart; some will stay on throughout the entire route of this street car conspiracy. Some will enter later than others, but as the street car continues down its route, the evidence will show more conspirators entering on it.

Now the evidence on behalf of the Government will show that the conductor of this street car was a newspaper reporter, one Nolen Bulloch, who was always on the street car, there to extract from each conspirator as he boarded a sum of money, to
260] conceal the fact that the man was on board the street car, or, even in fact, that the street car itself existed. This conductor will be present throughout the entire stage -- the entire route of the street car, on the track of time. We might say then that rather than a street car named Desire we will have a conspiracy named Corruption. The evidence will show that these twenty defendants --

Mr. Page: I want to object to the argumentative form of the opening statement; I think he should confine it to his evidence, instead of the final arguments so to speak.

The Court: I will overrule the objection, but the opening statement should be primarily a statement as to what the proof will be rather than an argument.

Mr. Crawford: I thought it necessary in this case, Your Honor, to give some background to what the conspiracy would consist of.

The Court: Well, it should be limited to the proof that will be submitted in support of the charges made in the Indictment.

Mr. Crawford: The evidence will show that these twenty defendants in their various capacities as liquor dealers, bondsmen, newspaper reporter, police officers, public official, and what have you, were engaged in an unlawful conspiracy to import intoxicating liquors into the State of Oklahoma, contrary to the Federal Statutes against such importation. The evidence
261] will show a scheme whereby the defendant Don Gray has sold to a large number of Oklahoma liquor dealers, so-called bootleggers, over a period of many years -- at least back until 1948. The evidence will show that he knew these liquor dealers were bootleggers from Oklahoma; that on one occasion at least he came down to Oklahoma to solicit the business of the Oklahoma bootlegger; and that he has been engaged over the period of the conspiracy, as the street car has gone down the track, selling and supplying thousands of cases each month, each year, to the Oklahoma liquor dealers, many of whom are defendants in this case.

The evidence on behalf of the United States will further show that back between the years 1948 and 1951, there were certain people engaged in unlawful activities, such as liquor dealings, that paid money for lack of publicity, to conceal their operations, and that this money went to the conductor, Nolen Bulloch, as long ago as that. The evidence will show that as the scheme developed and enlarged and grew, that it began to encompass law enforcement officers. The evidence will show that back around 1950, '51 and '52 the conspiracy was gaining momentum, that one particular liquor dealer and one particular bondsman entered the conspiracy to pick up from other liquor dealers and other individuals and to turn that money over to officers of the City of Tulsa Police Department, who in turn

262] protected those liquor dealers who were violating the laws of the United States by importing liquor into Oklahoma and by engaging in the retail liquor business and the wholesale liquor business without the necessary tax stamps.

As the evidence of the Government develops further we will see that in 1957 there came a giganic spreading out of this conspiracy; that it had gained great momentum; that it was all powerful; and that at the same time secrecy and concealment were necessary ingredients, necessary parts of this conspiracy if it were to be successful, and that in 1957 the conspiracy branched out to cover not only the liquor dealings, but the dealings of prostitution and the dealings of gambling.

Mr. Ungerman: Just a moment, if Your Honor please, the defendants jointly and separately object to the statement made by the District Attorney at this time as to the evidence that the Government will have in this case pertaining to evidence of alleged pay-offs of prostitutes and gambling for the reason and upon the ground that such evidence would be and is definitely incompetent, irrelevant and immaterial to the issues involved in the trial of this particular action, because the indictment returned herein does not set out any such acts whatsoever and they do not constitute any offense against the laws of the United States; and we take the position at this time that the statement made by Mr. Crawford, District Attorney, in his opening statement, is highly prejudicial to the rights of the defend-
263] ants, and each of them, and by virtue of those prejudicial statements deliberately having been made to this jury we respectfully move at this time to declare a mistrial and discharge the panel.

Mr. Shortridge: We adopt that objection.

The Court: Objection overruled.

Mr. Malloy: At this time may we for the purpose of the record have an understanding that by any form of presentation of motion, made by Mr. Ungerman or Mr. Hickman or any of the other attorneys, that that motion be made for and on behalf of all the defendants.

The Court: Yes, I think the record might now show that it will be understood that unless otherwise noted or limited that all motions made on behalf of any counsel for a defendant will be deemed made on behalf of all defendants; and it will be further understood that all objections interposed either to argument of counsel, to questions propounded to witnesses or answers given, unless otherwise noted, will be deemed to have been made on behalf of all defendants in the case.

Mr. Patten: That is, jointly and severally, Your Honor?

The Court: Well, I don't think I can make it any plainer than I did.

264] Mr. Crawford: And when we filed this conspiracy in the year 1957 the evidence will show it branched out into these various categories that I have mentioned encompassing not only the liquor dealers but the police officers, the police commissioner himself who was a vital part of it in its final stages, the same newspaper reporter, that started out as the conductor many years ago, and of course the bondsmen.

Mr. Gotcher: If Your Honor please, we object to that.

The Court: Objection overruled.

Mr. Gotcher: Allow us an exception.

Mr. Crawford: Of course the bondsmen who were associated with it aided and paid the conspirators throughout its existence, and played a vital role in the year 1957.

Now the evidence on the part of the United States will also show that not only the participation of each and every one of these defendants in this conspiracy, but the efforts made to conceal it, the efforts made to keep its activity secret and the efforts made to retaliate against those who interfered with its operation; the evidence will show that this conspiracy did exist, that it did grow and grow and grow over the years and that it was a conspiracy to import unlawfully into the State of Oklahoma intoxicants, and to sell those intoxicants in wholesale quantities and in some instances retail quantities, without paying the

265] necessary taxes thereon to the United States Government.

Upon the conclusion of the introduction of our witnesses, and we anticipate they will be some eighty-five in number, we anticipate that the evidence will show conclusively that these defendants did so participate and did violate the laws as alleged in the indictment, -- and, may I say, that the evidence to be introduced on behalf of the United States will only be as uncompromising as justice, and only as harsh as the truth.

The Court: Mr. Crawford, the indictment consists of two counts, Count 1 charges a conspiracy to violate the statute which prohibits importation of intoxicating liquor into Oklahoma; and Count 2 charges a conspiracy to -- upon the part of the said defendants engaged in the -- both the wholesale and the retail liquor business to wilfully fail to pay the special tax as required by the Federal Statute.

Is it the Government's theory in the case that the defendants engaged in one conspiracy to violate the Federal Statutes referred to in Count 1, and also the Federal Statute referred to in Count 2?

Mr. Crawford: It is the Government's theory, Your Honor, but that there was one conspiracy to violate the statute set forth in Count 1, and also in Count 2.

The Court: All right. Do you care to make an opening statement?

266] (The following proceedings were had out of the hearing of the jury.)

Mr. Shortridge: If the Court please, in view of the Government's attorney's admission that there was but one conspiracy, we move the Court at this time to require the Government to elect under which count the Government desires to proceed for the reason and upon the ground that each count must stand as a separate charge and cannot be combined together -- no man or group of men can be charged or tried for parts of an offense; they must be tried or charged for all of it.

The Court: Overruled.

Mr. Page: Comes now the defendant McAfee, and moves the Court to dismiss Counts 1 and Counts 2 of the indictment for the reason that the opening statement of the United States Government, by Hayden Crawford, United States District Attorney, is insufficient to support the charges of either Count 1 or Count 2 of the indictment.

The Court: Overruled. You may state your theory on the proof you expect to offer pertaining to gambling and prostitutes.

Mr. Crawford: The proof we will offer pertaining to gambling and prostitutes will be that in the year 1957, 1956, a reorganization of the conspiracy took place at which time it was agreed that John Bill Edwards would be the whisky pick-up man; that Charles Hirrlinger would be the prostitution pick-up man; that John E. McAfee would be the gambling pick-up man, and
267] that this money was collected and pooled in the conspiracy and then split up so that when for instance John E. McAfee, who was the gambling pick-up man received a part of the proceeds from the conspiracy it contained not only the gambling and the prostitution money but also the commingled whisky money. That each knew of the other's activities, each entered into the conspiracy wilfully and unlawfully; that each profited by the activities of the other in the various fields, of prostitution, gambling and whisky; and that in order to prove that the conspiracy did in fact exist and that the agreement was made as I have set forth, it will be necessary to show that pick-ups were made from prostitutes, and that pick-ups were made from gamblers, that went into this common fund.

The Court: Well, of course the evidence pertaining to pay-offs in connection with gambling and prostitution, that went into the fund will be admissable only for the purpose of exposing the participation on the part of one or more of the defendants.

Mr. Crawford: Yes, sir.

The Court: In the alleged conspiracy to violate the liquor laws. Insofar as Federal law is concerned, the engaging in prostitution or gambling is not a violation of the Federal law, and any

pay-off in connection with it would not be in violation of Federal law; that evidence could only be considered for the purpose of showing that those who collected tribute in
268] connection with the prostitution and gambling activities, as a part of their participation in the activity in the conspiracy and interest in the pay-off in connection with the operation of the whisky business.

* * * * *

272] JOHN C. RITTER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name? A. John C. Ritter.

Q. What is your occupation, Mr. Ritter? A. I am an attorney.

Q. Do you hold any position here in Tulsa County? A. Yes, I am Secretary of the Tulsa County Election Board.

Q. These books and records I have in my hand are your records, are they not? A. Yes, they are.

Q. Mr. Ritter, have you examined those books and records and tabulated a list of the elected officials of Tulsa County for the City of Tulsa, during the past few years? A. Yes, I have.

Q. Do you have that list with you? A. I do.

Q. May I see it, please? This has been marked for identification as Government's Exhibit 1. This is, as I understand your testimony, a recapitulation of the books and records that you have there, showing the elected county and city officials as well as the dates of those elections, is that correct? A. Beginning January 1st, 1948, to date -- yes, it is.
273]

Mr. Crawford: We now offer Government's Exhibit No. 1 into evidence.

The Court: Any objections?

Mr. Hickman: We have no objection to it.

The Court: It will be admitted.

Q. (By Mr. Crawford) Mr. Ritter, -- May Mr. Ritter have permission to take his records with him then; he has asked me for them, if he may have them in his work.

The Court: Yes, they may be withdrawn.

Mr. Crawford: I have no further questions.

Mr. Hickman: No questions.

The Court: Do you desire to read the exhibit?

Mr. Crawford: Yes, if I may, Your Honor, there are certain points on it I would like to read to the jury. This Exhibit No. 1 which has been introduced into evidence by the United States shows that the Tulsa City Election for 1956 was held on April 3, 1956, and that the Tulsa County primary was held on July 3, 1956, and the Tulsa County general election on November 6, 1956; it also shows that at the election on April 3, 1956, the defendant Jay L. Jones was elected police commissioner for the City of Tulsa; for the year 1954 it shows that on April 6, 1954 John W. Henderson was elected as police and fire commissioner for the City of Tulsa; it shows in 1952, April 1st the defendant Jay L. Jones was elected as police and fire commissioner for the City of Tulsa; it shows on April 5, 1950, H.R. Fowler was elec-
274] ted as police and fire commissioner for the City of Tulsa, and it shows that on April 7, 1948, Fred Lawrence, Jr. was elected as police and fire commissioner for the City of Tulsa.

It also includes the city, county and general elections for those years 1948 through 1956, and the other officials that were elected.

TOBY YOUNG, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Would you state your name? A. Toby Young.
Q. What is your present occupation? A. Secretary of the

Chief of Police.

Q. You are then a member of the Police Department of the City of Tulsa, is that right? A. That's right.

Q. Mr. Young, in your duties as Secretary of the Chief of Police, do you maintain records showing the assignments of various officers such as Chief of Police? A. Yes.

Q. And these books that you have laid down by the witness
275] stand are your books and records? A. That's right, sir.

Q. I hand you what has been marked as Government's Exhibit No. 2, and ask you if you will tell the jury what that is. A. Well, this is -- it is back to January 1, 1948, and it consists of all of the Chief of Police to April 1st, 1957.

Q. Now, Mr. Young, on that chart you have placed the names of the Chiefs of Police in the left-hand column, is that right? A. That's right, sir.

Q. Then you have placed across the top the years, is that correct? A. That's right, sir.

Q. And you have drawn a line covering certain dates, by each person's name, is that right? A. That's right.

Q. And that line indicates the time that the particular individuals whose name is in the left-hand column, served as Chief of Police, is that correct? A. That's correct, sir.

Q. Now, Mr. Young, I hand you what has been marked as Government's Exhibit No. 3; I ask you to tell the jury what that is if you know. A. This is a composition of assignments of officers in the vice squad, starting from May 1st, 1950 to April 1st, 1957.

276] Q. You have adopted the same system on that chart, have you not? A. I have.

Q. Placing the names of the individuals down the left-hand side, the years and months across the top and then placing dashes, covering the months they served in the various positions, is that correct? A. That's correct.

Q. Now, Mr. Young, those exhibits, Nos. 2 and 3, for the findings which I have identified by your testimony, are compiled accurately from the books and records that are here in the courtroom in your possession? A. They can be backed up by these books, yes, sir.

Q. I hand you what has been marked as Government's Exhibit No. 4 and I will ask you if the names appearing thereon have been checked by you and are found to have been on Government's Exhibit No. 3 and that the dates and times opposite those names are the same, insofar as they relate to those individuals? A. Yes, I

would say so.

Mr. Crawford: At this time if the Court please, we would like to offer into evidence Government's Exhibits 2, 3, and 4.

Mr. Malloy: If Your Honor please, with respect to the Government's Exhibit No. 2, we object to the competency of it.
277] We don't object to the figures or to the fact that these figures are grafted or charted here -- truly reflect the period of time in which these various men were alleged to, or were, or are, serving in the capacity in which they allege to be -- allege to have served. But we do object to this, at this time, to the competency of this Exhibit, Government's Exhibit 2.

With respect to Government's Exhibit 3 we particularly wish to point out this is an assignment to the vice squad; the figures here reflect that it goes back only to the period of 1950.

Mr. Crawford: I can clarify that, Your Honor, by one question to the witness if I may.

Mr. Malloy: If I may continue at this time to object to the competency of this, because in this indictment this is alleged to be a continuing conspiracy and it does not reflect if the Court please, from '48 to '50. In the opening statement counsel said they would show evidence of conspiracy, tying into these various people on the vice squad. I object to that also for the further reason the Government's Exhibit 3 not being competent for the additional reasons cited. And on this Government's Exhibit No. 4, which is I gather a -- well, let me ask a qualifying question on this if I may.

The Court: You may.

Mr. Malloy: Is this Government's Exhibit 4 supposed to be
278] merely a blown up -- A. I take it from reading that that is the names; I would have to compare them in detail.

Mr. Malloy: Let me ask you this: Did you make this chart yourself? A. No, I didn't make this; I made that one.

Mr. Malloy: You did take these figures yourself from the record, is that right? A. Yes.

Mr. Malloy: You did not make this drawing? A. No, I did not make this chart.

Mr. Malloy: Would you please look at Government's Exhibit 3, sir.

The Court: Just a moment. Who made the chart?

Mr. Crawford: It was prepared out of our office by a man employed. The figures and the times Mr. Young has testified to are identical insofar as those names on the other are concerned, to the one he prepared himself.

The Court: The purpose of Exhibit 4 is to visually demonstrate the data contained in Exhibit 3, is that --

Mr. Crawford: Yes, Your Honor, this is the entire purpose of it.

The Court: Mr. Young, as I understand it cannot tell whether or not this chart does reflect or is a take-off of his without analyzing it.

279] Mr. Crawford: He previously testified he did analyze it, and it did reflect the same --

Mr. Malloy: Didn't you say that you didn't know -- you didn't make this other -- A. I said I didn't make this chart, but I did testify these names appearing on this chart are the names that appear on the one I made.

Mr. Malloy: But these red marks, have they been checked against your graph over there in ink? A. Well, I said that I hadn't inspected that phase of it, but judging from appearances, that does reflect --

Mr. Malloy: Is this second page of Exhibit 3 a part and parcel of this blown up part? A. Yes, some of the names are the same as over here.

Mr. Malloy: It doesn't reflect that period from 1948 to '50, is that right? A. No, sir.

Mr. Malloy: We renew our objection to Government's Exhibit 4, and for the additional reason that the Government's Exhibit 4 was not prepared by the witness nor checked.

The Court: The objections to Exhibits 2 and 3 will be overruled; they will be admitted in evidence. Exhibit 4 will have to be further identified; somebody will have to testify that the data disclosed by Exhibit 4 is identical with that disclosed by 3 before it will be admissible.

280] Q. (By Mr. Crawford) Mr. Young, will you look at this at this time and take Government's Exhibit 3, and check Government's Exhibit No. 4; and see if the dates and names thereon are identical.

The Court: Do you have the person available that made this chart, Exhibit 4?

Mr. Crawford: No, sir; I don't have them available; it was my understanding Mr. Young, during the noon hour, would have accomplished what he is doing now; that's the reason we are caught by surprise as far as that phase of it is concerned.

Mr. Malloy: In the interest of time, Your Honor, if he wants to go out and check it, that's all right with us, if he wants to come back in later, if Mr. Crawford would like to have him do that, in the interest of time; we are not here just trying to delay or anything of that nature.

The Court: Suppose it be admitted subject to your check with Mr. Young after --

Mr. Malloy: That's all right.

The Court: After he completes the examination and if you are satisfied that the data is identical with that shown on 3, then there will be no objection.

Mr. Malloy: There will be no objection on that ground.

The Court: On that point.

Mr. Malloy: No, sir.

The Court: All right.

281] A. The first five names that I checked, the dates are identical with my chart.

Q. (By Mr. Crawford) One further question, Mr. Young: Why did Government's Exhibit No. 3 not go back past the year 1950? A. Well, sir, our records, -- our ledgers that are kept by the department heads, at that time was all centered out of the detective division, and the combined members of the patrol division and there was no set assignments given in the ledgers; in other words, when a man came on duty, they signed up, and their assignment sheets were posted to the ledgers, but not to any certain division.

Q. As I understand, what you are saying, Mr. Young, it is to this effect: You have no actual records back beyond 1950.

Mr. Malloy: Object to that as leading and suggestive.

The Court: Overruled.

Q. (By Mr. Crawford) You have no accurate records showing assignments to the vice squad prior to 1950, is that correct? A. That's right, from these ledgers.

Q. But you were subpoenaed to bring in the records from 1948 on, is that correct? A. I did that.

Mr. Crawford: I have no further questions.

The Court: You may stand aside, I wish you would complete
282] your check after you go outside of the courtroom.

A. May I take these books with me?

Mr. Crawford: If the Court please, may this witness have the benefit of using their books and records in the police department?

The Court: Yes, sir.

Mr. Crawford: You may do so.

Jay L. Jones et al. vs. United States of America

ROY FARLEY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Roy Farley.
Q. Mr. Farley, what is your present business or occupation? A. I run a recreation hall.
Q. Where is that located, Mr. Farley? A. 1314 West 17th.
Q. Mr. Farley, do you know a woman by the name of Cleo Epps? A. I do.
Q. Do you know a man by the name of Harvey Pugh? A. I do.
283] Q. Do you know a man by the name of Jack Hudson, and also Roy Seals? A. Yes, sir.
Q. Do you know a man by the name of Dale Hines? A. Yes, sir.
Q. Mr. Farley, have you ever engaged in the retail or wholesale liquor business? A. Yes, sir.
Q. When was the first time, please, sir? A. Well, I couldn't tell you the exact year; George Blaine was in office, I will tell you that; I don't know what year it was at.
Q. Could that have been around 1948 and 1950? A. Yes, sir, somewhere along in there.
Q. Now, where did you operate your business from at that time, Mr. Farley? A. The first time I was in business?
Q. Yes. A. I had a phone in West Tulsa.
Q. And was that a retail liquor business or wholesale business? A. Retail.
Q. Now did you ever engage in the wholesale liquor business? A. I -- I don't know just what year it was -- yes, sir, -- '50 -- around '50.
284] Q. Around 1950? A. Yes, sir.
Q. Where did you operate that business from, Mr. Farley? A. Creek County.
Q. Could that have been out near the Creek County-Tulsa County line? A. Yes, sir.
Q. What was the name of the establishment that you operated that business from? A. Well, at that time it didn't have no name.
Q. Did it ever have a name? A. Yes, sir, later, Chicken Shack, they called it.
Q. Called it the Chicken Shack? A. Yes, sir.

The Court: Wait just a minute, Mr. Crawford, can that

microphone be adjusted there so that it will pull it out a little bit?

Q. (By Mr. Crawford) Now, Mr. Farley, you have testified you operated a wholesale liquor business from the Chicken Shack; where did you obtain this liquor that you sold from the Chicken Shack? A. In Cairo, Illinois, and -- yes, there was a little of it came from Cairo, and Shreveport, Louisiana.

Q. Then you actually caused it to be imported into the
285] State of Oklahoma from Louisiana and from Illinois, is that correct? A. Yes, I hauled it in myself.

Q. You hauled it in yourself? A. Yes, sir.

Q. Approximately what quantities did you haul in at one time? A. Oh, fifty or fifty-five cases would be a load.

Q. And then did you sell that liquor to other dealers in and around the Tulsa and Sapulpa area? A. Yes, sir.

Q. Now, Mr. Farley, during that period of time did you ever give any money to Cleo Epps? A. Yes, sir.

Mr. Page: If Your Honor please, I am going to object; no predicate or foundation laid for that question.

The Court: Overruled; of course it will have to be connected up, otherwise it would not be admissible.

Q. (By Mr. Crawford) What was the reason, Mr. Farley, for giving that money to Cleo Epps?

Mr. Ungerman: Objected to as calling for a conclusion on the part of the witness.

The Court: Sustained.

Q. (By Mr. Crawford) How much money did you give Cleo Epps, Mr. Farley? A. To the best of my knowledge I think it was $100 a month.

286] Q. $100 a month? A. Yes, sir.

Q. Was that money paid in cash or by check? A. Cash.

Q. And where did the deliveries of this money take place? A. Well, I couldn't answer that, Mr. Crawford, I mean -- she might have come out and got it or I might have took it to her house, and gave it to her; I don't remember that.

Q. Did some of the transactions take place at her house? A. I wouldn't swear to that, no, sir.

Q. But they were always in person, is that correct?

A. Yes, sir.

Mr. Shortridge: Object to that form of question as leading, Your Honor.

The Court: Overruled.

Q. (By Mr. Crawford) Now, Mr. Farley, was any one ever with you at the time that you delivered that money to Cleo Epps? A. To my knowledge, no, sir.

Q. Could Dale Hines have ever been with you on one occasion?

Mr. Ungerman: We object to counsel cross-examining his own witness, if Your Honor please.

287] The Court: Objection overruled.

Q. (By Mr. Crawford) You may answer the question. A. What was the question.

Q. Could Dale Hines have ever been with you on one occasion?

Mr. Ungerman: We move that the question is objectionable for the reason it is leading and suggestive.

The Court: Objection is overruled.

A. Well, I wouldn't swear that he was, no, sir, because I don't remember.

Q. Mr. Farley, you also engaged in the gambling business at one time, did you not? A. That's right.

Q. Where did you operate that business from? A. Bar-X and Blue Dahlia.

Q. Who did you operate that in partnership with, if anybody?

Mr. Gotcher: If the Court please, we object to that for the reason it is not within the pleadings in this case; there is nothing here but whisky involved.

The Court: Objection overruled. Of course it will have to be connected up with the alleged unlawful conspiracy to engage

in the whisky business but at this time the objection will be overruled. If it is not connected up the jury will be admonished not to consider it.

288 Q. (By Mr. Crawford) Mr. Farley, who was engaged in the operation of the Bar-X with you? A. Jack Hudson, and Dale Hines.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Mr. Farley, were these gambling operations in Creek County or Tulsa County? A. Creek County.

Q. And when was it? A. Well, I have tried to really figure it out myself and I couldn't swear to just what years and so forth that there was -- it was back -- the Bar-X was between '45 and '50 and the Blue Dahlia was I believe in '51.

Q. And was that a liquor establishment or gambling? A. Gambling.

Q. Where was the liquor establishment? A. Creek County.

Q. Then your activities with reference to the sale of liquor and the importation of liquor and the operation of gambling places all took place in Creek County? A. Those did, yes, sir.

Q. Have you ever been convicted of a violation of the prohibition laws or the gambling laws of the State of Oklahoma? A. Of the State of Oklahoma --

289 Mr. Crawford: If the Court please, I would like to reach a determination at this time as to how far the Government as well as the defense attorneys may go into asking witnesses and defendants about prior convictions? It has been my understanding that we may only ask with regard to felonies.

Mr. Hickman: I submit it is moral turpitude, Your Honor; if the offense involves moral turpitude, because the asking of the question is only for the purpose of giving the jury an idea of what weight and value they will give to the witness' testimony. Therefore, that the inquiry is whether or not he has been convicted of crime involving moral turpitude, and the question is permitted --

Mr. Shortridge: I think it might shorten things, we could move faster if Mr. Crawford has a list of the FBI records of the witness --

The Court: Let's talk about the objection.

Mr. Shortridge: That he is guilty, we could look at that and tell which crimes allegedly involve moral turpitude, because we could ask the man on cross-examination anything about his business, the business he has been in, so that the jury may identify him and also we could determine from the FBI records perhaps, in Mr. Crawford's possession whether or not he has been accused of the crime involving moral turpitude; it wouldn't matter whether a misdemeanor or felony.

Mr. Hickman: I am only concerned about convictions; I only
290] asked him with reference to having been convicted.

The Court: I will overrule the objection and I'm going to permit both sides to interrogate witnesses with reference to convictions involving violations of the liquor laws.

Mr. Hickman: Yes, sir.

Mr. Crawford: Thank you, Your Honor.

Mr. Page: It is going to be confined to that if Your Honor please?

The Court: Well, not necessarily.

Q. (By Mr. Hickman) Do you know what my question -- do you know what my question is, Mr. Farley? A. Yes, sir. Well, I was caught with a load of whisky in Ashdown, Arkansas, one time, paid eight hundred some dollars fine, and I was caught in Sapulpa and paid a fine, and that's all.

Q. Just paid a fine? A. Paid two fines.

Q. Never served any time? A. No, sir.

Q. How about gambling laws? A. No, sir.

Q. Were you prosecuted in Sapulpa and Creek County? A. No, sir.

Q. For violating -- for operating gambling houses? A. I
291] have never been -- I had a case over there but I beat the case.

Q. Was this Blue Dahlia, was that the name of the club in which you operated a gambling place in Creek County, was that blown up by an explosion? A. Well, it wasn't blown up, but it was damaged pretty heavily; the back door was blowed in, and the

windows was blowed out, and a bunch of light fixtures blowed loose.

Q. Now that wasn't located within the city limits of Tulsa? A. No, sir.

Q. Nor in the county of Tulsa? A. No, sir.

Q. These transactions that you may have had with Cleo Epps, did they take place in Creek County too? A. Yes, sir.

Mr. Hickman: That's all.

The Court: Do you have any further questions?

Mr. Crawford: I would like to ask one additional question, Your Honor, if I may -- if necessary I would like to move that I may reopen the direct testimony for this one question.

The Court: All right.

Redirect Examination by Mr. Crawford

292] Q. Why did you give the money each month to Cleo Epps, Mr. Farley?

Mr. Malloy: That is objectionable on the ground, calling for a conclusion on the part of the witness. The Court --

Mr. Crawford: The question was, why did he give her the money.

The Court: I will sustain the objection.

Mr. Crawford: That's all, Mr. Farley.

Mr. Rucker: May this witness not be excused permanently?

The Court: No, the witness is not excused unless he is advised by the Court to that effect.

293] CLEO EPPS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Cleo Epps.

Q. Mrs. Epps, have you ever been engaged in the liquor business? A. Yes, sir.

Q. Have you ever been convicted for such an activity? A. Yes, sir.

Q. And would you tell the jury briefly the number of your convictions, if any? A. Oh, three convictions.

Q. All right now, what is your present occupation, Mrs. Epps? A. I am in the asphalt business.

Q. Do you know the defendant Nolen Bulloch? A. I do.

Q. Would you tell the jury, Mrs. Epps, to the best of your recollection when the first time was that you met Nolen Bulloch. A. It was in the summer of 1948.

Q. What was the occasion for the meeting? A. The first I met him was here in the Federal Building but he came to my home later.

294] Q. And where was your home? A. At that time it was on the Sand Springs road.

Q. And did you have a conversation with him at that time? A. I did.

Q. Would you relate to the best of your ability the substance of that conversation? A. Well, mostly he was telling me how underpaid a reporter was --

Mr. Hickman: May we interrupt to ask the Court -- to inform the jury that this conversation is only to be considered as to the defendant with whom she had the conversation at this time and is not to be received as evidence against the other defendants.

The Court: Yes, the jury will understand this, not only with respect to the testimony of this witness but also with respect to the testimony of witnesses to follow, that the testimony given concerning the conversations that this witness had with Mr. Bulloch is admissible only against that one defendant, not admissible against other defendants in the case. Now that will be true, as I say, with respect to witnesses that are to follow who may testify concerning conversations had with other defendants. The testimony is to be considered by the jury only with reference to the particular defendants who are parties to such conversations -- not to be considered as to other defendants in the case unless and until there shall be sufficient evi-

295] dence presented by the Government to substantially indicate that other defendants became a part of an alleged conspiracy

as charged in the indictment. But if the conspiracy established, and the evidence be sufficient to show that other parties defendant in the case were members of the conspiracy and participated in it, then the statements made by any defendant who was a party to the conspiracy is admissible against all defendants who are found to be members of the conspiracy during the period of time that the conspiracy was in effect. Now I may have to point out frequently from time to time as we go along the extent to which evidence may be considered by the jury and I will do the best I can to keep you current in that respect so that you will be properly advised as to the extent to which the evidence presented may be considered.

Q. (By Mr. Crawford) Mrs. Epps, you were relating the conversation at your home on the Sand Springs Road between you and Nolen Bulloch.

Mr. Rucker: Your Honor, I think the additional objection is that there is no overt act so alleged. The only one they allege is at Bill's Truck Stop during the summer of 1953 and no other conversation with Mrs. Epps has been alleged, between Nolen Bulloch and her, by the Government.

The Court: It isn't necessary to allege all the overt acts, and it is only necessary to prove one of the overt acts alleged in order to make that -- so the objection will be
296] overruled.

Q. (By Mr. Crawford) You may continue relating the conversation, Mrs. Epps. A. What was the last question?

Q. You were relating the conversation between you and the defendant Nolen Bulloch at your home on the Sand Springs Road and you stated as I recall that he was telling you that he was underpaid. A. Yes, sir.

Q. Did he say anything else to you? A. Well, it was just mostly that he was underpaid, he didn't make enough money, there was a lot of money being made in Creek County and he knew that I knew that and that is mostly the substance of the conversation.

Q. Now what type of business were you in at the time? A. I was in the liquor business.

Q. Did you ever discuss your liquor business with the defendant Nolen Bulloch? A. Yes, I did.

Q. Now when was the next time to the best of your recollec-

tion that you had a conversation with the defendant Nolen Bulloch? A. It was about a week later.

Q. And what was the substance of that conversation?

297] A. I believe at that time I had passed the story on to other people; in the meantime, -- and I thought maybe we might be able to help him.

Q. And where did that conversation take place? A. In his car.

Q. And where was his car located? A. In the road about -- what would be about a block of my home.

Q. Now did you mention to him who these other people in the county were that you had talked to? A. I don't believe I mentioned any names; I mentioned the places of business though.

Q. And what were the places of business to your recollection? A. Oh, the Bar-X night club, the Ace Club. And the 500 Club.

Q. Now, Mrs. Epps, do you recall when the next occasion was that you met and talked with the defendant Nolen Bulloch? A. I don't remember how long it was; it was sometime after that, they had contributed the money and I believe, a telephone conversation, invited him out to get it and he came back out to my home.

Q. He came after the money, in your home, is that correct? A. Yes.

Q. Now where did you get the money that you had in your

298] home for him at that time? A. From the Bar-X Club.

Q. Well now, we would like for you to be specific and mention the names of the individuals who gave it to you? A. I believe the first was Dale Hines, and Billie Popovich and Harvey Keith.

Mr. Hickman: Pardon me, did you say where these places were, Bar-X, and Ace of Clubs, where they were.

Mr. Crawford: Mr. Hickman is asking me a question, Your Honor; the bar identified by Mr. Farley as being on the Tulsa County line in his testimony.

The Court: All right, you may proceed; you can find that out on cross-examination. Raise your voice just a little bit, speak a little more distinctly.

Q. (By Mr. Crawford) Do you recall how much money you turned over to Nolen Bulloch at that time? A. I believe the

amount was $300 at that time.

Q. Was that money in cash or by check? A. By cash.

Q. Did you have a conversation with Bulloch at that time? A. Not much conversation, I just told him who contributed the money.

Q. Now, Mrs. Epps, did you ever deliver any additional sums of money to Nolen Bulloch after that time? A. Yes, sir.

Q. And when was the next time approximately? A. One
299] month later.

Q. Did he pick up regularly from you each month? A. For a period of about four months. Then they kind of closed up, and I didn't get any money, so I didn't give him any for a while and then I started up again in about four or five months later.

Q. Now during the time, Mrs. Epps, that you collected money from these individuals whom you have mentioned, do you know whether or not Nolen Bulloch wrote any adverse publicity against their activities? A. Not while I was paying him the first time, but there was adverse publicity during the time that I didn't pay him. Then the second time I started the procedure, right on the end, one of the clubs blew up; we did for a while get adverse publicity at that time, even though the money had been given.

Q. Did you ever collect any money from Roy Farley? A. Yes, sir.

Q. How often did Roy Farley pay you money to give to Nolen Bulloch? A. Each month.

Q. How much did Roy Farley give you each month? A. At different times it varied; when he was at the Bar-X I got $100 a month, and at one time Roy Farley was operating the Chicken Shack, with liquor, alone, and he paid me $100 a month
300] part of the time and part of the time $50 a month.

Q. Then as I understand your testimony, Mrs. Epps, you were picking up money from various people engaged in illegal activities on the Creek County-Tulsa County line, and delivering that monthly to Nolen Bulloch, is that correct? A. Yes, sir.

Q. Now, Mrs. Epps, did you at one time operate what was known as Bill's Truck Stop? A. Yes, sir.

Q. Where was that truck stop located? A. 9100 East Admiral.

Q. What type of business did you carry on there at the Truck Stop? A. I operated a cafe, twenty-four-hour service, and a service station, and cafe.

Q. Now did you have any conversation with Nolen Bulloch in that truck stop? A. Yes, sir, I did.

Q. What was the conversation, the date of the first conversation with Nolen Bulloch in the Truck Stop? A. I don't remember the day of the month but it was in July of '53.

Q. Of 1953? A. Yes, sir.

301] Q. Now did you have more than one conversation with Nolen Bulloch in the Truck Stop? A. No, sir, only one in the Truck Stop.

Q. And was this conversation taking place in the day or the night? A. In the early evening.

Q. Was it dark outside or light? A. I would say it was getting dusk.

Q. About dinner time? A. Yes.

Q. Now did Mr. Bulloch come to the Truck Stop alone or in company with someone else? A. As far as I know he was alone; he came in the place alone.

Q. And where did you first conduct your conversation with him? A. When I saw him come in at the door I got up from the booth and met him about half way and we sat on the stool at the counter right by the cash register, but after he stated his business --

Q. Just one moment; you got up and met him and you sat on the stool by the cash register, is that right? A. Yes, sir.

Q. You were both then up on a stool, is that correct? A. Yes, sir.

Q. Were there other people in the establishment at the

302] time? A. There were a number of people there eating.

Q. Do you recall who any of those people were? A. Bill Edwards and his wife were eating; Lulu Anderson and Lefty Anderson, and Billie Popovich.

Q. Now, Mrs. Epps, would you relate to this jury and the Court please the conversation that you had with Nolen Bulloch at that time? A. Well, he told me at that time, I wasn't in Creek County any more, that I was in Tulsa County now, and that I would have to pay, or he would close me up. And I didn't think he could; I told him I didn't intend to pay.

Q. Did he tell you how much you would have to pay? A. $2000 a month.

Q. What type of business were you supposed to operate and pay $2000 to him? A. I wasn't operating any kind of business that I could pay that, and I told him so, but there were some other people had been contacting me frequently, wanting to set

up gamblings in one of my cabins because I cashed Douglas checks.

Mr. Page: I move that that be stricken as being hearsay, as against these defendants, and not any part of the conspiracy alleged.

The Court: I will sustain that motion. And then insofar
303] as the testimony of the witness to the effect that other parties had talked to her about going into the gambling business, that testimony would be hearsay as to all defendants and should not be considered by the jury.

Q. (By Mr. Crawford) Now, Mrs. Epps, were you conducting any gambling activities there at the Truck Stop? A. No, sir, I wasn't.

Q. Were you conducting any liquor activities? A. No, sir, I wasn't.

Q. Isn't it true that a raid was made upon your premises there at Bill's Truck Stop for liquor? A. Yes, it was.

Q. Would you explain to the jury how the liquor happened to be there on that occasion? A. There was no liquor at the Truck Stop; they got that in a car that had been driven over on my property.

Q. And did you drive the car over? A. No, sir, I wasn't even there; I had gone to lunch with a friend of mine.

Q. Now, Mrs. Epps, did you ever handle any whisky at Bill's Truck Stop? A. No, sir, I didn't.

Q. Now, the day that this whisky was caught in the car that had been driven over on your property, did that take place before or after this conversation you had with Nolen Bulloch?

A. After.

304] Q. And were you subsequently padlocked because of that?

A. I was.

Q. And yet that was the only arrest, or only raid that was made upon those premises, is that correct? A. Yes, sir.

Q. Now, would you tell the jury, please, the physical establishments there at Bill's Truck Stop, -- you had a filling station, is that right? A. Yes, I had six pumps, and a cafe located on -- and the cabins were located on four lots; there was a corner lot, just below me, adjoining me, another station called Atomic Station; it was operated by C.J. Anderson. And then their liquor was sold at that place.

Q. Did you have any interest in this place operated by C.J. Anderson? A. No, sir, I did not.

Q. Did you have some cabins around the Truck Stop? A Yes, sir, I had ten cabins.

Q. Those were tourist cabins? A Yes, sir.

Q. And inside the Truck Stop you had an eating establishment, is that correct? A. Yes, sir.

Q. And on the night Nolen Bulloch came into the establish-
305] ment, and you sat at the counter with him, was there anyone else sitting near you at the counter? A. Yes, sir, there was a boy that worked at American Airlines sitting right next to the cash register.

Q. Did you and Nolen remain at the counter or did you move? A. No, sir, when I got mad, and I suppose loud, this fellow that was sitting there turned around and Mr. Bulloch saw that he had overheard the conversation, or he thought he had, and he asked me to move in the back corner booth, which I did.

Q. You moved in the back corner booth. And were you and he then alone in the booth? A. Yes, sir.

Q. There were no other people present? A. No, sir.

Q. Do you recall what you said to Nolen Bulloch when you became angry, Mrs. Epps? A. I told him that I wasn't violating any law; I had no intentions of violating the law, and that I wouldn't pay him $2000 a month or anyone else $2000 a month; that as long as I had any interest in the Truck Stop that I was going to operate and I wasn't going to pay anybody.

Q. Did he try to convince you that you should pay him? A. No, he didn't try to convince me; he just told me that I would be padlocked; I told him I didn't think I would. But I was.

306] Q. Now, did you have any other conversations with Nolen Bulloch about that then, Mrs. Epps, that you can recall? A. Well, I had talked to him about three days after I opened the Truck Stop.

Q. And where did that conversation take place? A. In front of the Tribune office.

Q. And how did you happen to be in front of the Tribune office when you saw Nolen Bulloch? A. An attorney had called me and told me to contact him and I called him. No, this attorney -- I called the attorney, I believe, was the way it was, and he told me to -- that he was going to contact him; and I told him that I would do it myself; if he wanted to see me that I had had dealings with him before and that I wasn't going through him with any deal. Then Nolen Bulloch called me, and I met him in front of the paper.

Q. What was the conversation you had with him there in front of the newspaper building? A. He asked me if I was going to sell liquor, or violate any law and I told him I wasn't.

Q. What did he say, if anything? A. He says, Be sure that you don't -- or else, see me.

Q. How was that -- or else see him if you did, is that right? A. Uh huh.

Q. It was after that you saw him at Bill's Truck Stop?

307] A. Yes, he came out there.

Q. Did this attorney that you mentioned represent you? A. When I was padlocked I called him and he did represent me, but it wasn't because he wanted to; it was because I kind of forced him to.

Mr. Crawford: You may examine.

Cross-examination by Mr. Ungerman

Q. You stated that you name was Cleo Epps? A. Yes, sir.

Q. Have you ever been known by any other name? A. No, sir, other than married names; I have been married before.

Q. You have gone by -- or have you been known by the name of Cleo Gilbert? A. That is my maiden name, before I married.

Q. Have you gone or have you ever been known by the name of Cleo Joyce? A. Yes, sir, I married Mack Joyce.

Q. Were you divorced from him? A. In 1930, I believe.

Q. Have you gone by and have you been known by the name of Cleo Thomas? A. Yes, sir.

308] Q. Have you also gone by and have you been known by the name of Cleo Bailey? A. Yes, sir.

Q. You also have had conferred upon you the title in this area as Queen of the Bootleggers, isn't that correct? A. I have.

Q. Now relative to your principal business or profession, what is that at the present time? A. In the American Asphalt.

Q. Where are you located? A. 5700 Sapulpa Road is the office.

Q. Where is your plant -- I'm talking about the asphalt plant? A. We have no plant; we buy asphalt ready mixed.

Q. I see. How long have you been in that particular business? A. Since September last year.

Q. 1956? A. Yes, sir.

Q. Now prior to September of 1956, what has been your principal business, profession or occupation? A. I have a ranch

located in Creek County; I operated that but in the summer I have been in Idaho; I have spent the last two summers in Idaho.

Q. During the time you have been in Oklahoma, you have
309] engaged in the business as a wholesaler of whisky, haven't you? A. No, sir, not since 1948.

Q. You have not been engaged in the business of a wholesaler in the whisky business since 1948? A. That's correct, not in the wholesale business.

Q. Well, as a retailer have you engaged in the business in Oklahoma? A. I never was engaged in the retail liquor business in my life.

Q. I see. Now, on March 6, 1950, were you convicted of conspiracy to violate the Arkansas laws relative to liquor? A. 1950?

Q. March 6, 1950? A. I don't remember any dates --

Q. Beg your pardon, it is March 6, '40 -- I am sorry. A. 1940, that's more like it.

Q. Is that correct? A. That's correct.

Q. And you were given a sentence of six months, and to pay a fine of $500, was that correct? A. $100.

Q. Did you get a six months sentence with it? A. I did.

Q. In April of 1941 were you convicted in the State of
310] Missouri for liquor transportation? A. Yes sir, I was.

Q. You were given a sentence of one year, weren't you? A Twelve months.

Q. Well, that still figures a year. A. No, I did more time.

Q. You also were given a concurrent sentence at the same time of eleven months, is that correct, in the State of Missouri? A. I don't remember about that.

Q. You don't remember? A. No.

Q. In June 1941 were you convicted in Borger, Texas, of liquor transportation? A. No, sir.

Q. Was there anyone else by that name, Cleo Epps, that you know of? A. Not that I know of.

Q. Have you ever gone by the name of May Gilbert? A. That is my middle name and my maiden name.

Q. Have you -- haven't you given that name when you were arrested by the Alcohol Tax Unit, on July 22, 1941, at Cape Girardeau, Missouri? A. No, sir, I gave them my right name; I was sentenced under my right name.

Q. You didn't give the Alcohol Tax Unit the name of May
311] Gilbert?

Mr. Crawford: He is arguing with the witness, Your Honor; we object.

Mr. Ungerman: I am just trying to elicit the facts.

Mr. Crawford: He asked that three different times.

The Court: I think that is immaterial; the thing that is of interest is the number of convictions.

Mr. Ungerman: All right.

Q. (By Mr. Ungerman) Mrs. Epps, you have engaged as a wholesaler, have you not, of intoxicating liquor in Oklahoma? A. No, sir, I have hauled, but I have never wholesaled.
Q. You say you hauled whisky into Oklahoma? A. Yes, sir.
Q. Do you remember an episode in hauling whisky into Oklahoma of approximately two hundred eighteen cases in the fall of 1947? A. I do.
Q. You had a wreck bringing the liquor in through Missouri, didn't you? A. Yes, sir.
Q. And then the whisky disappeared between Missouri and Oklahoma, is that correct? A. Yes, sir.
Q. And you were questioned by the Alcohol Tax Unit about
312] it in November 11, 1947, and you told them you just drank up the two hundred and eighteen cases on the way in from Missouri, didn't you? A. I did.
Q. That wasn't true though, was it? A No, sir, but --
Q. You later had the alcohol --

The Court: Just a minute, give the witness enough time to answer your questions.

Mr. Ungerman: I'm sorry; I thought she was through.

The Court: I believe the question was, was the statement that she consumed the two hundred seventeen cases true.

Mr. Ungerman: That's right.

The Court: You didn't answer that question.

A. No, sir, it wasn't true.
Q. (By Mr. Ungerman) You later gave them a statement

on January 21, 1948, that you didn't drink up the two hundred eighteen but you managed to get it into Oklahoma? A. Yes, sir, that's right.

Q. Now you were arrested on December 10, 1951, in a raid that was carried on by the Alcohol Tax Unit in which a fellow named Carl Marler was arrested, is that correct? A. I don't even know Carl Marler.

Q. You don't know him? A. No, sir.

313] Q. You were not arrested with him on December 10, 1950?

A. No, sir, I was not.

Q. Did you enter a plea of guilty on April 21, 1952, in this Court to a charge of wholesaling without having paid for and procured a special stamp provided by the Internal Revenue Code? A. I did, but I wasn't arrested with Carl Marler.

Q. You did plead guilty to wholesaling without a stamp? A. I plead guilty, that's true.

Q. Then you were wholesaling liquor without a stamp, is that correct? A. I did not wholesale it.

Q. But you entered a plea of guilty to the charge and were sentenced to a term of six months, and to pay a fine of $500? A. Yes, sir, I was.

Q. Now when you bought the Bill's Truck Stop out here in the County, on East Admiral near the traffic circle, that place had just been padlocked by the County of Tulsa in a proceeding brought by Robert Wheeler as County Attorney, isn't that true? A. No, sir, it had not been padlocked when I went out there.

Q. What had happened to it with reference to Mr. William R. Statham's operation out there? A. I had been in Idaho all summer, and when I came home he came to me -- I had a mortgage on the cabins; I financed the building of the cabins --

314] I had a mortgage on it and he came to me and told me he was losing it; I asked him why, and he said that he had gone broke and he started selling liquor and that they wasn't going to let him operate and he said that he was ready to walk out; and I took it over to protect my investment.

Q. You knew at that time that the place was being used to dispose of liquor, didn't you? A. I knew that it had been, but when he left there there was no more liquor sold in that Truck Stop.

Q. You didn't sell any? A No, sir.

Q. Do you know a Deputy Sheriff named Carl Steel, that was formerly in Creek County? A. I do.

Q. Did you ever use an automobile to transport liquor in from Missouri into the State of Oklahoma? A. No, sir.

Q. How do you account for the fact then, Mrs. Epps, that this car was found with all these regalia on it as to a Deputy Sheriff's car, in front of Bill's Truck Stop with liquor in it? A. I had possession of his car and had had for a month, and he had my car.

Q. You used that particular car to bring in that load
315] of whisky then prior to July 30, 1956? A. No, sir, I never brought in a load of liquor in that car and I never had any liquor in that car, ever.

Q. Well, did anyone with your permission or knowledge or authority use that car to transport liquor from Missouri into Oklahoma? A. No, sir.

Q. They did not? A. No, sir.

Q. And you don't know how the liquor found its way into the back end of the Deputy Sheriff's car that was found on your premises, do you? A. I later found out how it came there.

Q. That car was an official county car, wasn't it?
A. Yes, sir.

Q. Had the sirens on it, and the short-wave radio, and the long aerials on it, didn't it? A. Yes, sir.

Q. Had an official tab on it, showing it, on the back, to be a deputy sheriff's vehicle? A. It was a deputy sheriff's vehicle.

Q. And it was loaded with whisky when a raid was made at your place and the whisky was found in it, that's true, isn't it? A. That depends on what you call loaded; I think there was three lugs in it.

316] Q. Well, it depends on what you call a load, I think.

A. Uh huh.

Q. You just testified you didn't know Carl Marler?
A. No, sir, I do not.

Q. Did you know an individual during his lifetime by the name of Lefty Anderson? A. I did.

Q. What connection did Mr. Anderson have with your operation? A. He bought a place from me, adjoining my ranch; he lived there.

Q. And what was his business or profession or occupation that you knew of, and could see and hear? A. Well, he hauled liquor.

Q. He was a <u>whisly</u> hauler, wasn't he? A. Yes, sir.

Q. Now do you remember when he was arrested in connection with some liquor that was found out there on his place? A. Yes, sir.

Q. Were you charged in the same case? A. There was no liquor found at his place.

Q. Well, were you charged in a case that involved Lefty Anderson, arising over in Creek County? A. Yes, sir, I was.

Q. And you entered a plea of guilty to that, didn't you?

317] A. Yes, sir.

Q And your plea of guilty was in case No. 12531, in this Court, on March 1st, 1955, wherein you admitted transportation and importation of liquor into Oklahoma, isn't that right?

A. Yes, sir.

Q. And you received a sentence from Judge Savage of six months in the County jail and a $500 fine, didn't you? A. Yes, sir.

Q Now that was as late as March 1st, '55, is that right?

A. I don't remember the --

Q. Well, do you remember when you went to jail over at Claremore, or up here at Tulsa County, rather? A. Tulsa County.

Q. You did that sentence in Tulsa County; this previous one you did in Claremore? A. Yes, sir, but the sentence grew out of a charge the year before that.

Q. That's correct; your case was passed from time to time at the request of the District Attorney's Office, isn't that true? A. That's right.

Q. Do you remember one day when you came up for sentence in this Court, when Mr. Froeb, the Assistant United States Attorney that is sitting at the counsel table today, advised

318] the Court here that he didn't have any knowledge of your record, and asked for a postponement of the sentencing?

A. Yes, sir, I remember it.

Q. You had been engaged in the whisky business though, by your own admission for some nine years previous to that time, hadn't you?

The Court: Mr. Froeb hasn't been around here as long as the Court.

Mr. Crawford: What is the purpose of this, Mr. Ungerman?

The Court: Just a moment. If that is an objection it is overruled.

Mr. Crawford: Well, it is an objection, Your Honor, and I would like to renew it.

Q. (By Mr. Ungerman) Now, Mrs. Epps, when did you quit the whisky business? A. I have not been engaged in it for myself since 1948.

Q. Well, do you mean to tell this Court and jury that you have not been in the whisky business since 1948, and yet you had plead guilty to two charges in this particular court within that period of time? A. Yes, sir.

Q. Well, were you handling the whisky for somebody else, or taking the so-called rap for somebody else? A. That could be possible.

319] Q. Well, was it possible? A. Yes, sir, it was.

Q. Well, who was the parties involved? A. Well, Lefty Anderson on one occasion.

Q. And who was the other? A. On both occasions.

Q. Of course, Mr. Anderson is dead now and cannot testify, isn't that true? A. Yes, sir.

Q. Now you say that the first time that you talked to Mr. Bulloch was back in 1948? A. Yes, sir.

Q. At that time you had not reached the height of success as being called the Queen of the Bootleggers, had you? A. I don't know what you mean by that.

Q. Well, had you become known in the community as the leader of the women bootleggers?

Mr. Crawford: If the Court please, that is objectionable; he is asking her what was known in the community about her.

The Court: I will sustain the objection.

Q. (By Mr. Ungerman) All right, at that time were you engaged in the liquor business anywhere on the first time you talked to Mr. Bulloch? A. Yes, sir.

Q. Where were you engaged in the liquor business? A. I

320] hauled, from Cairo, Illinois, to Oklahoma.

Q. Whereabouts in Oklahoma did you dump your loads? A. I didn't dump it.

Q. Well, unload them, please, ma'am? A. Different places at different times, it all belonged to somebody when I brought it in, and they just took it off of my car and put it on theirs.

Q. It was unloaded principally in Creek County, Oklahoma, wasn't it? A. Most of the time.

Q Just across the line into Creek County, isn't that true? A. Not all the time but --

Q. Well, did you ever unload any load in Tulsa County? A. Yes.

Q. During that particular period? A. Yes, sir.

Q. Whereabouts, please? A About a mile north of Jenks.

Q A mile north of Jenks? A. Uh huh.

Q. And where else? A. Oh, at the Pole Cat Creek Bridge -- I usually drove off the road and the car met me there, and we transferred.

321] Q. Did you at any time during that period import any intoxicating liquors into Oklahoma and unload them within the city limits of the City of Tulsa? A. Never in the city limits.

Q. And you never have, isn't that true? A. I never have.

Q. Now you were interested, isn't it a fact, about seeing to it that the Bar-X and the Ace of Clubs, and the 500 Club, which is all located in Creek County, Oklahoma, received a regular flow of liquor, whatever they might want to handle over there, isn't that true? A. No, sir, they bought liquor from some other places.

Q. But you were one of their principal suppliers along with Lefty Anderson, isn't that true? A. No, sir.

Q. It is not true? A. No, sir.

Q. Will you tell this jury, please, ma'am, how and why you figured out it was necessary to contact them to help out a starving reporter? A. It wasn't necessary; they were the only people that I knew that would be willing to contribute.

Q. They were your customers, is that right? A. No, sir, not at the time, they weren't.

Q. But you went to them to get money and they graciously

322] gave it to you? A. Yes, sir.

Q. Now the names of those persons who were operating out there were Dale Hines, Popovich, and Harvey Pugh, isn't that correct? A. Part of the time.

Q. And then Farley became involved in one of the operations? A. Yes, sir.

Q. Now then directing your attention to Bill's Truck Stop in the 9100 block on East Admiral, that is also out in the county, is it not? A. Yes, sir, it is.

Q. Not located within the city limits of the City of Tulsa? A. That's right.

Q. And when you took the place over from Bill Statham, you knew at that time that it was at least under suspicion of engaging in the whisky business out there? A. Under suspicion, yes.

Q. I see. Now the night that you revealed here that Nolen Bulloch came out to see you, will you again relate to me the names of the persons that were in that place of business as you say having dinner? A. There were possibly fifteen or twenty people there but I didn't know them all.

323] All right, you testified I believe that Bill Edwards was there? A. Yes, sir, he and --

Q. What is his known occupation? A. I scarcely knew Bill Edwards at the time.

Q. But don't you know now and didn't you know then that he was a bootlegger? A. I did.

Q. All right, was Lefty Anderson there? A. Yes, sir.

Q. He was a whisky hauler and a bootlegger and had been engaged in business with you in hauling whisky, hadn't he? A. Yes, sir.

Q. Prior to that time? A. Yes, sir.

Q. What was the occupation of Popovich? A. She runs a supper club.

Q. A notorious liquor spot in Creek County, Oklahoma, isn't that correct? A. I don't know about that.

Q. You never heard of it being raided for whisky? A. I suppose it has been.

Q. Well, you know that as a fact --

324] Mr. Crawford: If the Court please, he used the word "notorious"; I think that is what is confusing --

Mr. Ungerman: I will take the word "notorious" out, in case she doesn't understand the meaning of it, Judge.

Mr. Crawford: It is not a question --

The Court: I think she understands the meaning and that is perhaps the reason that the question is difficult to answer.

Mr. Ungerman: All right, then, I will withdraw the question.

The Court: If you will not embellish the question quite so much, it perhaps can be more readily answered.

Q. (By Mr. Ungerman) You knew as a matter of fact that the location had sold whisky? A. Yes, sir.

Q. Had you ever sold Popovich whisky? A. No, sir, not at that time.

Q. But those were the people that were at your place that you say, when Bulloch came out there to see you? A. Yes, sir.

Q. And you say that he had made a demand upon you for money? A. Yes, sir.

Q. Now, three days previous to that time I believe you testified he met you in front of the Tribune Building? A. Some days previous to that, I won't say --

325] Q. Well, right here, down twon, just across the street from the Federal Building? A. Yes, sir.

Q. And at that time he asked you whether you were going to engage in any illegal activities? A. Yes, sir.

Q. And you told him, no? A. Yes, sir.

Q. And isn't it a fact that the Tribune publishes that meeting, that you had told him you weren't going to engage in the whisky business? A. Yes, sir.

Q. And then between the time that you talked to Bulloch in front of the Tribune building and the time that Bulloch -- you claim he comes out to get money from you, three or four days later, do you know whether or not you had engaged in the sale of whisky at Bill's Truck Stop? A. I had not.

Q. Did any one else on the premises sell whisky? A. Not on my premises.

Q. Well, directing your attention to the entire enclosure out there, the cabins and the restaurant and the filling station, was anybody else selling whisky in any of those premises?

A. They were selling whisky at the Atomic Station adjoining me on the east.

326] Q. Who was doing the selling? A. C.J. Anderson.

Q. That is Lefty Anderson? A. No, sir, no relation.

Q. Who is C.J. Anderson?

Mr. Crawford: If the Court please, I think it may be difficult to answer.

The Court: Well, she may answer if she can, give a better statement.

A. All I know he was working there and selling liquor there at this station when I took over the Truck Stop.

Q. (By Mr. Ungerman) I see. A. Where he came from I don't know; I never knew him before.

Q. I see. And do you know whether or not that had been publicized in the newspaper? A. No, sir, I don't know if it was.

Q. Well, was there ever a raid made on the Atomic spot there while you were there? A. No, sir, they kept selling liquor there after I was padlocked, the liquor station was not closed at that time.

Q. How long afterwards was it closed up? A. I don't know but I know it was still operating a week later.

Q. You know as a matter of fact it was closed by the
327] County authorities, through Ace Lang, and W.W. Field, who was then Sheriff? A. Quite a bit later after I was padlocked.

Q. Now you tell the Court and jury that during your tenure of the operation in the Bill's Truck Stop you didn't sell any liquor at all? A. No, sir, I did not.

Q. All right, the District Court of Tulsa County, Oklahoma, padlocked your place. A. That's correct.

Q. Didn't permit it to operate in any fashion or form as a result of the illegal activities that were going on out there, isn't that true? A. They padlocked it; for what reason I don't know.

Q. You never did open it again, did you? A. Yes, sir.

Q. When? A. About two weeks later I posted a $7500 bond and opened it.

Q. And then what did you do with the place? A. I operated it.

Q. You operated it? A. Yes, sir.

Q. For how long? A. Until September -- about the 22nd,
328] I believe, of September, I sold it to Houston Erickson, the service station.

Q. Now did you sell everything to Houston Erickson? A. Yes, sir.

Q. Did you divest yourself of all of your right, title and interest in the place? A. Yes, sir, except I took a mortgage on it.

Q. Took a mortgage on it. Well, on October 10, 1953, was that mortgage in default? A. October 10th?

Q. Yes. A. I don't understand what you mean.

Q. Well, on October 10, was Mr. Erickson entitled to run the place of business as he operates other filling stations in this community? A Yes, sir, he took possession of it when I sold it to him.

Q. You had no further interest in it? A. I had a mortgage on it; I still have.

Q. You still have a mortgage? A. Yes, sir.

Q. Can you explain to the Court why you moved in on the evening of October 10, 1953, and took over the operations of the filling station again? A. I never did.

Q. You never did? A. I never took over the operation of
329] it after Mr. Erickson took it.

Q. You tell this court and jury under oath that on October 10, 1953, you didn't move in and forcibly take over the operation of that place? A. No, sir.

Q. And Mr. Erickson became disgusted and picked up and left with his help? A. That is absurd.

Q. That is absurd? A. It sure is.

Q. When you had the conversation with Mr. Bulloch in front of the Tribune Building he told you that -- did he not, if you operated to be sure and see to it that you didn't violate any law of Tulsa County? A. He did.

Mr. Ungerman: That's all.

Mr. Rucker: I have a few questions.

Cross-examination by Mr. Rucker

Q. Now who first introduced you to Nolen Bulloch? A. I don't remember; I met him in the hall of this building, near the Commissioner's office.

Q. What Commissioner? A. Mr. Lawton Bragg.

330] Q. Did you talk to him any length of time then? A. Yes, I talked to him but I don't remember the conversation.

Q. And when did you next see him? A. It was possibly a month later.

Q. And where? A. At my home.

Q. Did you ever see him in Tulsa in your pick-up truck? A. I don't remember.

Q. Didn't Mr. Bragg first introduce you to Nolen Bulloch? A. Yes, sir, I believe so.

Q. Didn't you and Mr. Bragg meet Nolen Bulloch behind the courthouse at one time to discuss some situations? A. I don't --

Q. At your request -- did you and Mr. Bragg and Nolen Bulloch sit in a pick-up truck and discuss some of your problems at one time? A. I don't remember; it could be possible, but I

don't remember it.

Q. You mean you wouldn't remember a conversation, -- if I recall correctly you remember in some detail a conversation you had with Nolen Bulloch however some eight years ago at your house, don't you? A. Yes, sir, I do.

Q. But you don't remember whether or not you ever sat in
331] your pick-up truck with Lawton Bragg, the United States Commissioner and Nolen Bulloch? A. No, sir, not off-hand I don't.

Q. That wouldn't have made an impression on you? A. It didn't; if there wasn't any money involved it wouldn't.

Mr. Crawford: If the Court please, I object to the intimidation of the witness by defense attorneys; there or four times he asked that very question.

The Court: I will sustain the objection.

Q. (By Mr. Rucker) Now, -- but during this period of time, 1948, you recall definitely and clearly your conversations with Nolen Bulloch about money, is that right? A. Yes, sir -- yes, sir.

Q. He said he was a poor reporter, is that right? A. Yes, sir.

Q. And you wanted to help him out? A. I did.

Q. And there was no other reason but to help him out? A. That's right.

Q. Did you have any degree of affection for him? A. No.

Q. In other words there was no reason that you paid him, Nolen Bulloch, money in 1948, except you wanted to help him? A. He impressed me as being a man that needed help.

Q. Yes. Did he tell you how many children he had at that
332] time? A. I believe that he said he was having a hard time feeding his family on his reporter's salary.

Q. Are there any other people, reporters or otherwise that you helped feed back in those days? A. There are a lot of them.

Q. A lot of deputy sheriffs too, weren't there? A. Yes, sir.

Q. Nolen Bulloch never turned his automobile over to you, did he? A. I didn't ask him for it.

Q. But a deputy sheriff did? A. That was a favor he asked me to operate my car to do some work in because it would not be identified and I had no alternative except to drive his

until he got through with it.

Q. Well, was it a little handy to you in the business you were in to have a car of a deputy sheriff, with a siren, and three markers on it? A. No, sir, it wasn't.

Q. Didn't help you a bit? A. No, sir.

Q. Now you didn't need any influence of anybody with that deputy sheriff, did you? A. No, sir.

Q. Now you say that in July of 1953 Nolen came out to
333| see you at Bill's Truck Stop? A. Yes, sir.

Q. Now was that before or after the time you saw him in front of the Tribune? A. After.

Q. How many days after? A. I'm not sure, a couple of weeks possibly.

Q. All right, at the time you talked to Nolen Bulloch over the telephone, did you -- were you asked to come up to the Tribune office? A. Yes, sir.

Q. They wanted to talk to you up there, didn't they? A. Yes, sir.

Q. Well, did you figure that he wanted you up at the Tribune office to try to get any money out of you up there? A. He didn't say to come to the Tribune office; he said meet him down in front of the Tribune office.

Q. All right. And you met him down in front? A. Yes, sir

Q. At that time you knew and he knew that Bill's Truck Stop was known as a whisky place, didn't you? A. Yes, sir, but I told him I intended to --

Q. That's right; I just want one at a time. In other words, when you talked to him everyone knew you and he
334| both that it was known as a whisky joint that --

A. Yes, sir.

Q. And you and he were discussing the fact and you were trying to sell him on the idea that you were going out of the whisky business, weren't you? A. I was.

Q. And you say that -- and after you talked to him and told him you were going out of the whisky business he wrote a story about the fact that you were going to sell nothing stronger than soda pop, didn't he? A. That's right.

Q. You say it was a few days after that he came out and wanted $2000 a month? A. Yes, sir.

Q. Well, you weren't doing anything wrong, you say, don't you? A. I wasn't.

Q. You were just selling Pepsi-Cola and the like, weren't you? A. Yes, sir.

Q. And you say there was no reason to pay him $2000 a month to sell Pepsi-Cola? A. There wasn't.

The Court: Mr. Rucker, I'm not going to permit two
335] of the counsel to cover the same identical ground on cross-examination.

Mr. Rucker: All right, yes, sir.

The Court: You are repeating the same ground covered by Mr. Ungerman; if you have other matters that you want to interrogate about it will be permitted.

Mr. Rucker: All right, there are two or three, or one or two things with reference to the people that were there that night. If I may inquire a little on a different angle of that.

Q. (By Mr. Rucker) Nolen Bulloch of course is a reporter, so -- or as most newspaper men knew the bootleggers by reputation and names, obviously, didn't he? A. I think he should.
Q. All right, now, Bill Edwards was a well known liquor dealer? A. To him, but not to me at that time.
Q. Weren't you in business with Bill Edwards shortly after that? A. No, sir.
Q. Didn't Nolen Bulloch write a story stating that you and Bill Edwards were in business together? A. He wrote a lot of stories that were not true.
Q. All right, Bill was in the liquor business and you were in the liquor business, but not together? A. I didn't even know him.
336] Q. But he happened to be there that night, is that right?
A. Yes, sir.
Q. And Lefty Anderson happened to be there that night?
A. Yes, sir.
Q. He had been in the liquor business with you hadn't he?
A. Yes, he had, --
Q. And Billie Popovich -- is that a man or a woman? A. A lady.
Q. And you knew her? A. Yes, sir, I did.
Q. In fact, you had been in the liquor business with her, hadn't you? A. No, sir.
Q. Did you ever operate a place at 7th and Boulder with Billie Popovich? A. No, sir.

Q. Didn't you own a part of the business she operated on the Tulsa Creek County line? A. No, sir.
Q. In which you sold whisky and gambling A. No, sir, never.
Q Now you say as I understand it that when you were operating Bill's Truck Stop -- how far is this so-called Atomic Energy -- Atomic Filling Station from your place of business?
A. It was on the adjoining lot east.
337] Q. How many feet -- was it just immediately adjoining yours? A. I would say two hundred.

The Court: That has been covered, Mr. Rucker.

Mr. Rucker: I didn't know that.

The Court: Confine your examination or your cross-examination to new matter.

Q. (By Mr. Rucker) Weren't you in partners with this fellow Anderson that was running that? A. No, sir.
Q. Now when you were running Bill's Truck Stop, you were cashing Government checks, weren't you? A. Yes, sir.
Q. And at the same time you were selling whisky to the men that was in, cashing the Government checks? A. No, sir.
Q. Wasn't there complaint made to Douglas about that?
A. Not to my knowledge.
Q Didn't the newspapers carry articles and particularly Nolen Bulloch about you selling whisky to the men there at Douglas A. I never read it.
Q. You never read that? A. No, sir, never.
338] Q. But you knew there were complaints about you selling whisky to the men that was in cashing government checks? A. No, sir.

The Court: Any redirect?

Mr. Crawford: Yes, Your Honor, if they have completed their conference.

Mr. Shortridge: Your Honor, I would like to put three questions, to cover new matter.

The Court: All right.

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Cross-examination by Mr. Shortridge

Q. Mrs. Epps, as I understand it then you have not been in the wholesale or retail liquor business since 1948? A. Yes, sir, that's right.

Q. And you never were in partnership with Mr. Anderson, I believe his name was Lefty? A. No, sir, I was never in partnership.

Q. Never had any agreement with him? A. No, sir.

Q. You weren't in partnership with Bill Edwards? A. No, sir.

Mr. Crawford: If the Court please, that isn't new matter.

The Court: Do you object to it?

339] Mr. Crawford: Yes, sir, I object to it.

The Court: I sustain the objection.

Q. (By Mr. Shortridge) Did you have any agreement with anybody? A. No, sir.

Q. You were always an independent operator? A. Yes, sir.

Mr. Shortridge: I believe that's all. Thank you, Mrs. Epps.

The Court: Any redirect?

Redirect Examination by Mr. Crawford

Q. Cleo, you may as well go ahead and tell them what happened from the time you saw Nolen down here in front of the Tribune to the time he came out to the Truck Stop; what was the proposition? A. Well, there were three men came to my place and propositioned me to rent them No. 1 cabin, to set up gambling, because I was cashing checks --

Mr. Ungerman: We object to all that as incompetent, irrelevant and immaterial and not within the issues.

Mr. Page: The Court ruled on that objection once.

Mr. Crawford: I would like to make a statement after

they have made their argument.

The Court: All right.

340] Mr. Crawford: If the Court please, on cross-examination they have brought forth enough information to in my opinion justify an answer to that question, by the method that they have gone around and endeavored to show that Nolen Bulloch was trying to keep her out of illegal activity, and that there was nothing for which she could pay him $2000 for; and now by my questions I propose to show why it would have been possible for her to pay $2000.

Mr. Malloy: I suggest if he is going to make his argument on a proposition of proof, that it be done out of the hearing, please, up by Your Honor there, so that they cannot hear these offers to prove, or what he is going to make. I think they should properly be made up by you, out of the range of the jury, so that you can rule on it.

The Court: On occasion that will be necessary, but in this instance I think not. I am going to sustain the objection.

Q. (By Mr. Crawford) Did Nolen Bulloch talk with you, Cleo, about what you were to use one of your cabins for?

Mr. Ungerman: That is objected to as not being proper redirect.

The Court: Overruled.

A. I told him I wasn't on it any more and I couldn't afford to pay $2000 a month. He said, I knew people that could and would if I would rent them No. 1 cabin, to set up gambling.

Q. Now, Mrs. Epps, Mr. Ungerman referred to a case that
341] was passed for sentence, against you, by my office; do you recall that? A. Yes, sir.

Q. He made a statement it was passed for about a year, is that correct? A. Yes, sir.

Q. And at that time, Mrs. Epps, you knew yourself of charges that were filed against you -- Bennie Stuart, and Bob Matthews, do you not? A. Yes, sir.

Mr. Ungerman: That is objected to as incompetent,

irrelevant and immaterial -- just a minute, give me a chance to object, please, ma'am -- objected to as incompetent, irrelevant and immaterial, not within the issues.

The Court: I believe I will sustain the objection; I don't think there was any implication of any improper conclusion that might be drawn from the fact that the case was delayed for a period of time. I believe it would be improper to go into the matter any further.

Mr. Crawford: If the Court please, may I approach the Bench -- I have another purpose in mind besides that.

(Thereupon counsel conferred with the Court at the Bench, and thereafter the following proceedings were had towit:)

342] Q. (By Mr. Crawford) Now, Mrs. Epps, I believe Mr. Ungerman, in asking you how the whisky got in the car at the Truck Stop, he asked you if you knew how it got in the car at the Truck Stop. A. I wasn't there; I didn't see it; I only know what the boys told me happened, and how it came to be in there.

Mr. Ungerman: Object to that as hearsay.

Mr. Crawford: She hasn't said what occurred.

The Court: She hasn't been asked to relate what occurred, so the objection is premature.

Q. (By Mr. Crawford) You had nothing to do with the whisky being in the car? A. No, sir, it wasn't in there when I left.

Mr. Crawford: I have no further questions.

Mr. Ungerman: No. questions.

Mr. Rucker: May we have a recess before asking more questions?

The Court: I am trying to get through with this witness before the recess.

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Cross-examination by Mr. Rucker

Q. But you told a number of people that you were going to frame Nolen Bullcoh and put him away where he wouldn't bother you any more. A. No, sir, I never said that in my life.

Q. Hasn't Nolen Bulloch written fifty or a hundred arti-
343] cles blasting you? A. Yes, sir.

Q And your activity? A. Yes, sir, but I am not the only one he has written articles about.

Q I know it. And didn't you give him the credit, or the blame, for driving you out of Tulsa County? A. No, sir.

Q. Well, if you could get rid of Nolen Bulloch you would go back in the whisky business. A. No, sir, I have no desire.

Q. It has been suggested -- well, I don't -- this "desire" you talked about -- never being in the whisky business, haven't you told the courts time and time again you were going out of the whisky business -- every time you are up for sentence you tell them you are going out.

The Court: That is argumentative.

A. Oh --

The Court: Just a minute; you need not answer that question. Do you have further questions?

Mr. Crawford: One other question, Mrs. Epps.

Redirect Examination by Mr. Crawford

344] Q. Isn't it true when these articles by Nolen Bulloch were written about you they were written about you as punishment for not paying him?

Mr. Ungerman: That's objected to as calling for a conclusion, and ask that the jury be admonished not to consider it.

Mr. Crawford: They have asked for it.

The Court: I think the way you have asked the question it is objectionable. I sustain the objection.

Mr. Ungerman: We ask that the jury be admonished not to consider that question.

The Court: The jury should not consider the answer given to the question; but I sustain the objection to the question as put to the witness.

Q. (By Mr. Crawford) Mrs. Epps, did Nolen Bulloch ever write these vicious articles about your activities at a time when you were paying him money? A. No, sir.

Q. Were they ever written at a time when he had approached you to pay him money and you had refused? A. Yes, sir.

Mr. Crawford: Thank you.

Cross-examination by Mr. Ungerman

Q. You told Mr. Crawford that Mr. Bulloch didn't ask you
345] for anything as far as returning for the payment of the money and you never asked him for anything, is that true, when you were paying him $300 a month, you didn't ask him anything in return, did you? A. Yes, sir.

Q. What did you ask him -- you told Mr. Crawford there wasn't anything asked. A. To not publish -- it was understood that he wouldn't publicize --

Q. You never stated that to Mr. Crawford before. A. I don't remember he asked me.

Q. You didn't have any understanding with Mr. Bulloch at all, did you? A. Yes, sir.

Q. You said you gave him the money because you thought he looked like he needed it, was that true or false? A. That's true to some extent, but the people that gave me the money wouldn't have given it to me --

Q You mean, what somebody else thought -- A. Had I not promised them there would be no publicity.

Q. You promised somebody else, but Mr. Bulloch didn't promise anybody, did he? A. Yes, sir.

Q. Did he ever talk to the other three people? A. He promised me --

Q. Did he ever talk to the other three people that put up
346] money? A. Not to my knowledge.

Mr. Ungerman: That's all.

The Court: That's all. You may be excused. Ladies and Gentlemen, we will take a recess for fifteen minutes -- and let me say to the jurors, you should not discuss the case with anyone or permit anyone to discuss it with you.

Mr. Crawford: If the Court please, I would like to introduce in evidence at this time or offer for introduction into evidence, Government's Exhibit 4; I understand it has been checked by Mr. Young.

Mr. Ungerman: That's correct.

Mr. Crawford: And it is agreeable to the attorney.

The Court: No objection?

Mr. Ungerman: No. objection.

The Court: It will be admitted.

ROY D. HINES, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Roy D. Hines.

Mr. Rucker: I couldn't hear the witness, Your Honor.

Q (By Mr. Crawford) Will you speak into the microphone. A. Roy D. Hines.

Q. Are you sometimes known as Dale Hines? A. Yes.

Q. Mr. Hines, at one time did you operate an establishment out on the Creek County-Tulsa County line? A. Yes, sir.

Q. And during what year or years was that? A. Approxi-
348] mately '47 or '48; I can't give you the correct dates.

Q. Could it have been after '48 or during '48? A. Yes, sir.

Q. Now, do you know Cleo Epps, Mr. Hines? A. Yes, sir.

Q. Did you know her at that time in 1948? A. Yes.

Q. Now, Mr. Hines, during that time did you ever give any money to Cleo Epps?

Mr. Ungerman: Objected to as being incompetent, irrelevant and immaterial.

The Court: Overruled.

Mr. Ungerman: No proper predicate having been laid for such testimony.

The Court: Objection overruled; you may answer the question.

A. I don't remember exactly; I either did personally or indirectly, one.

Q. What do you mean by that, Mr. Hines? A. Well, I either gave it to her, or my partner, I don't know.

Q. Who was your partner? A. Roy Farley.

Q. Were you and Roy Farley operating the Bar-X at that
349] time? A. Yes, sir.

Q. Were you the senior partner or was Roy Farley?
A. Well, I guess you would call me the senior partner.

Mr. Shortridge: Object to what the witness guesses, Your Honor.

The Court: Overruled.

Q. (By Mr. Crawford) Now I want you to think very carefully, Mr. Hines: Were you ever with Roy Farley when either you or he gave money to Cleo Epps? A. No, I don't believe I was.

Q. Well, what makes you think then, Mr. Hines, that some money passed?

Mr. Shortridge: That's objected to as calling for a conclusion on the part of the witness.

Mr. Crawford: I haven't finished the question yet.

The Court: You haven't finished the question?

Mr. Crawford: No, sir.

Mr. Shortridge: Sorry.

Q. (By Mr. Crawford) What makes you think then, Mr. Hines, that either you or Roy Farley gave money to Cleo Epps?

Mr. Ungerman: That is objected to as being incompetent, irrelevant and immaterial, calling for a conclusion.

The Court: I will sustain that objection.

Mr. Crawford: Well, may I refresh this witness' memory,
350] Your Honor, from the grand jury testimony that was taken, grand jury convened in this District, sitting on March 17, 1957

The Court: No.

Mr. Ungerman: We object to that.

Mr. Crawford: Then at this time, Your Honor, I would like to advise the Court that this witness' testimony as --

Mr. Ungerman: Just a moment, please, just a minute. May we approach the bench?

The Court: You go ahead, Mr. Crawford, with your statement.

Mr. Crawford: At this time, Your Honor, I would like to advise the Court that this witness' testimony is a surprise; on behalf of the United States I request permission to cross-examine him as to his grand jury testimony on March 15, 1957, for the purposes of impeachment.

The Court: Well, you may cross-examine him -- you may cross-examine for impeachment purposes only, and the jury is advised that where the Government is permitted to cross-examine a witness called by the Government for impeachment purposes, the only purpose of the cross-examination is to destroy the testimony of the witness that has heretofore been given. And his testimony given on cross-examination cannot be considered as proof of any fact sought to be established by the Government but is considered solely for the purpose of contradicting and destroying the testimony heretofore given on the witness stand. And be-
351] cause of the request made by the District Attorney, based on the surprise, with the testimony of the witness, he will be permitted to impeach the witness.

Mr. Rucker: We object for the additional reason, if Your Honor please, that although we requested it, this testimony was not furnished to the defendants.

The Court: Well, the Court ruled that it was not necessary

for the testimony to be furnished to the defendant. So the objection is overruled.

Q. (By Mr. Crawford) Do you recall appearing before the United States Grand Jury on the third floor of this building March 15, 1957? A. Yes, sir.

Q. You were subpoenaed as a witness, is that correct? A. Yes, sir.

Q. Do you recall this question being asked by me to you? How much did you give Cleo? And your answer was: It wasn't very much. Do you recall that? A. Yes, sir.

Q. The next question I asked you, I said, $50 a month? And your answer was, Sometimes it was. Do you recall that? A. Yes.

Q. Then I asked you, Where did you give her the money,
352] out at her house, or did you meet her? And your answer was, I saw her at her home. Do you recall that? A. Yes, sir.

Mr. Crawford: If the Court please, I submit that the witness' testimony in accordance with the grand jury and as he has testified to now, is inconcistent to his testimony prior to the impeachment, that his testimony should be disregarded and he should be impeached as a witness.

The Court: Well, that is a matter for the jury to decide. And you are advised --

Mr. Shortridge: We ask Your Honor to admonish the jury --

The Court: Wait just a minute; you won't have to ask. You are advised again that you should not consider the testimony of this witness given before the grand jury which was read by way of cross-examination of the witness as proof that he delivered any money to Cleo Epps; that evidence is to be considered by you only for the purpose of determining whether the testimony first given by the witness on his direct examination was true or untrue.

Mr. Crawford: I have no further questions of this witness.

Mr. Ungerman: No questions.

The Court: All right, you may stand aside.

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HARVEY PUGH, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Harvey Pugh.
Q. Where do you reside now, Mr. Pugh? A. 211 North 7th, Las Vegas, Nevada.
Q. Did you at one time live in or near the City of Tulsa, Mr. Pugh? A. Yes, sir.
Q. Did you at one time engage in a business enterprise out on the Creek County-Tulsa County line? A. Yes, sir.
Q. Do you know Cleo Epps? A. Yes, sir.
Q. Now, Mr. Pugh, were you in partnership with anyone in a business activity out on the Creek County-Tulsa County line? A. Yes, various ones.
Q. Were you ever in partnership with Roy Farley? A. Yes, sir.
Q. Were you ever in partnership with Dale Hines? A. No, sir, he worked for me; he wasn't a partner.
Q. Where did he work for you? A. At a place called Blue Dahlia.
Q. Now, Mr. Pugh, I ask you did you ever during that
354] period of time which was approximately 1948 and 1950, was it not? A. Yes, sir.
Q. During that period of time did you ever give any money to Cleo Epps? A. Yes, sir.
Q. How often did you give Cleo money? A. I don't just remember how often but numerous times.
Q. Was it regular? A. Well, in this way it wa: A lot of times we wasn't doing any business and I didn't at that time; but at any time we were why I did.
Q. About how much money did you give her, Mr. Pugh? A. I don't remember the exact amounts; I am sure, one time, $400, and $200, maybe a few times; $150 is the best I remember about that.
Q. Now, Mr. Pugh, did Cleo tell you where the money was going?

Mr. Rucker: Objected to as hearsay, incompetent, irrelevant and immaterial.

The Court: He may answer -- he may answer this question whether she told him or not, but he can't testify as to what she told him.

Q. (By Mr. Crawford) Well, may I have the witness answer this question and I would like to make an argument on behalf of the next one:

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Q. (By Mr. Crawford) You may answer the question, did Cleo Epps tell you where the money was going?

The Court: Don't state what she told you; just answer the question, did she tell you where the money was going?
A. Yes, sir, she did on one occasion.

Mr. Crawford: Now, if the Court please, --

The Court: Just ask the next question.

Q. (By Mr. Crawford) The next -- where did she say the money was going or to whom?

Mr. Ungerman: That's objected to as incompetent, irrelevant and immaterial, purely hearsay, the defendant and each of them separately and jointly.

Mr. Crawford: If the Court please, the defendant Nolen Bulloch is a defendant in the indictment and Cleo Epps has been named as a co-conspirator in the indictment; it is the position of the Government that the statement by Cleo Epps during the time that the conspiracy was in existence is admissible, at least as against defendant Nolen Bulloch.

Mr. Hickman: There is no conspiracy proven yet, Your Honor. Nolen Bulloch could write anything he wanted to as far as these people, he was under no duty to have anything to do with the enforcement of liquor laws. The most they have proven is a conspiracy between a law violator that if you won't publish anything about my violations I will give you some money; that's the most that can be made of the Government's case.

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The Court: Well, of course we have just started.

Mr. Hickman: Well, they are getting the cart before the horse here.

The Court: You will have to prove one thing at a time. I am inclined to think -- I hadn't for the moment it hadn't

occurred to me that it was charged that Cleo Epps was a co-conspirator. I think the evidence is admissible, subject of course to substantial proof of the existence of the conspiracy, and I think probably it comes -- it comes a little too soon. I will reserve ruling on it, but for the time being I am going to refuse to permit the witness to testify. What is your position?

Mr. Ungerman: I was going to substantiate Your Honor's position, by calling Your Honor's attention to the fact that there was no liquor importation act in force, as far as Oklahoma is concerned, during the period of time the witness is attempting to testify to; therefore no conspiracy can exist.

The Court: You have charged in the indictment a conspiracy to import and also a conspiracy to engage in the retail and wholesale business, without paying the special tax required by law. We are not dealing with alone an importation.

I will sustain the objection subject to granting permission to move that the evidence be admitted later.

357] Mr. Crawford: By recalling the witness, Your Honor?

The Court: Yes.

Q. (By Mr. Crawford) Mr. Pugh, what type of business were you operating out there on the Creek County line during 1948 to 1952? A. Casino business; I never was in the whisky business.

Q. Were drinks ever sold by the establishments? A. No, sir.

Mr. Crawford: I have no further questions.

Mr. Ungerman: No questions.

The Court: No cross-examination?

Mr. Ungerman: No, sir.

The Court: You may stand aside

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358] CARL D. HARP, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. What is your name, please? A. Carl D. Harp.
Q. Mr. Harp, have you ever been in the liquor business? A. Yes, sir.
Q. Were you in the liquor business during 1948 to 1950? A. Yes, sir.
Q. Do you know the defendant Nolen Bulloch when you see him? A. Yes, sir.
Q. Now, Mr. Harp, did you ever see the defendant Nolen Bulloch in the presence of Cleo Epps? A. Once.
Q. And where was that one time? A. At her house.
Q. And where was her house located then? A. I don't know what the address is; it is out there on the Sapulpa line; I know where the house is, but I don't know the address of it.
Q. What was the occasion for your being there at that time, Mr. Harp? A. Lefty Anderson and myself went out there to help her unload some hay, which we were doing, and he drove up in a car, and she got out -- off of the truck and went
359] out there; I had never seen him before, and she came back, she was a little irritated it seemed and I asked her who that man was and she said, that was Nolen Bulloch; and that ended the conversation.

Mr. Hickman: That's objected to on the ground, Your Honor, that it is hearsay, incompetent, irrelevant and immaterial.

The Court: Yes, I will sustain the objection. He may testify what he knew of his own knowledge, but he may not testify concerning conversation had with Cleo Epps.

Q. (By Mr. Crawford) Was the same man that you saw out there that day the same as this man sitting right here?

Mr. Rucker: Objected to, if Your Honor please.

The Court: Objection overruled.

A. Yes, I believe so.

Q. (By Mr. Crawford) Now, Mr. Harp, --

Mr. Malloy: I don't think that is quite exactly responsive; there was a little hesitation -- he barely looked over here.

The Court: That is a matter of argument. You may cross-examine him on that.

Q. (By Mr. Crawford) The man I am referring to, Mr. Harp, is this man right here.

Mr. Rucker: Well, if Your Honor please, let the witness try to pick him and not the Distri t Attorney; that might make a great difference. I object to this actions in that
360] regard.

The Court: The objection is overruled -- objection is overruled; it is entirely proper for the District Attorney to point out a defendant and to ask the witness if it is the same person he saw.

A. I think so.

Q. (By Mr. Crawford) Now, Mr. Harp, did you see Cleo give anything to that defendant? A. No, sir, I did not.
Q. And did she talk to him for very long? A. She went out and got in the car with him; she came back, I don't know how long she was gone; I didn't pay any attention; that was a matter I didn't notice; she was out there five or ten minutes, something like that; I didn't pay a bit of attention.
Q. She came back to the car where you were? A. Came back to the truck, yes, sir.

Mr. Crawford: No further questions.

Cross-examination by Mr. Rucker

Q. What year was that? A. I think it was in '49.
Q. What day of the month? A. I don't have any ida.
Q. What month of the year? A. Well, it was right after
361] the hay was baled; I don't know.
Q. Summer, winter or spring? A. It was in the fall of the year if I am not mistaken.
Q. Had you ever seen Nolen Bulloch before in your life, if you saw him that day? A. No, sir, I never had.
Q. Have you ever seen him since? A. No, sir.
Q. Except today? A. I have seen his picture in the papers

Q. You have seen his picture; has Mr. Crawford pointed out his picture to you? A. No, sir.
Q. If Mr. Crawford hadn't walked over, -- after Mr. Crawford pointed at him you said, I think that is Nolen Bulloch, didn't you? A. I have only seen the man once; it is highly possible I could be mistaken but I am pretty sure I am not.
Q. If Mr. Crawford hadn't pointed him out isn't it entirely possible that you wouldn't even have been able to pick him out? A. Well, I don't know.

Mr. Rucker: That's all I wanted to know. Thank you.

362] Redirect Examination by Mr. Crawford

Q. You picked him out before? A. Yes, sir I --

Mr. Malloy: Sir?

Mr. Crawford: You picked him out before I pointed him out to you? A. Yes, sir.

Mr. Malloy: Wait a minute, I don't know about that; the jury decides that.

The Court: The witness of course may answer the question, but --

Mr. Rucker: By the way, have you been in the liquor business?

The Court: Are you through yet?

Mr. Rucker: Oh, excuse me.

Mr. Crawford: No, sir, I would like to ask another question if I may.

The Court: Go ahead.

Q. (By Mr. Crawford) Did you see Cleo get anything out of the glove compartment of her truck? A. She took her purse with her, yes, sir.
Q. When she went to see Nolen Bulloch? A. Yes, sir.

Mr. Crawford: That's all.

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Cross-examination by Mr. Rucker

Q. And this all happened in 1948? A. '9 I believe it was.
Q. '9, you believe -- you remember her reaching in the glove compartment back in 1949? A. She took her purse with her when she went to the car.
Q. You remember that; let's see, that's how many years ago, seven or eight years ago? A. Yes, sir.
Q. Have you been in the liquor business? A. Yes, sir.
Q. Still in? A. No, sir.
Q. How long have you been out? A. Oh, since about 1951, I guess it was.
Q. How many times have you been convicted? A. Once, -- oh, you mean -- I don't follow you.
Q. How many times have you been convicted? A. Once.
Q. For selling whisky? A. I was caught once with a load of whisky.
Q. Just caught once; what are you doing now? A. Painting.
Q. Now were you in the whisky business with Cleo? A. No, sir.
Q. Were you in the business with Lefy Anderson? A. No,
364] sir, I knew Lefty real well, but I never did any business with him whatsoever.
Q. And if you did see Nolen Bulloch in 1949 you have never seen him again until this minute? A. No, sir.
Q. As far as you know. A. Not that I remember ever seeing him, no, sir.

Mr. Malloy: May I ask one question?

Cross-examination by Mr. Malloy

Q. Have you ever hauled any whisky for Bill Edwards and Heavy Barbour? A. I went after some; I didn't get home with it.
Q. It was Bill Edwards and Heavy Barbour you were arrested and caught with that whisky for them? A. Yes, sir.
Q. And what year was that? A. I don't really remember.
Q. Your best judgment. A. It was about '49 or '50, somewhere along there; I don't remember.

Redirect Examination by Mr. Crawford

Q. Now, Mr. Harp, will you tell this jury where you went

365] to get that whisky that you didn't get back with? A. Well, we were out in the country and a man came out there and brought it in a truck, we loaded it from his truck over to mine and I started home.

Q. What state were you in? A. State of Missouri.

Q. What was the man's name that you got it from? A. The fellow that brought it out there, I don't know, sir.

Q. Did you see him in this courtroom today? A. The fellow that was driving the truck, that brought the whisky to me?

Q. Yes. A. No, sir, I don't.

Q. Do you know the man's name, the fellow that brought the whisky out there? A. No, sir, I sure didn't. He had on khaki clothes, that's all I know; we didn't ask him any questions at all. I was going to come home, I was supposed to call when I got home? I didn't get but about a mile with the whisky when I was stopped.

Q. Why didn't you get but a mile? A. I ran into a road block.

Q. Were you arrested at that time? A. Yes, sir.

Q. Do you know from whom you were to buy the whisky?

366] Mr. Shortridge: Object to that.

The Court: I sustain the objection; that would have to be hearsay.

Q. (By Mr. Crawford) In what part of the State was this place that you picked up the whisky from? A. It was somewhere between Joplin and Seneca but I don't know exactly; it was out in the country, there was no --

Q. Do you think you would recognize this man that loaded that car for you, if you saw him close? A. Yes, sir, I think I would.

Q. Could his name have been Jimmie Johnson? A. Sir, I don't know what his name was; I mean, he didn't say and I didn't know it at that time.

Mr. Crawford: I have no further questions at this time.

Mr. Ungerman: No questions.

The Court: You will be excused.

367] E. LAWTON BRAGG, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. E. Lawton Bragg.

Q. Mr. Bragg, you are a commissioner for the United States at this time, are you not? A. Yes, sir.

Q. Your office is here in this building? A. Yes, sir.

Q. Mr. Bragg, do you know the defendant Nolen Bulloch? A. Yes, sir.

Q Do you know Cleo Epps? A. Yes, sir.

Q. At one time you ran some cattle on Cleo Epps' property, did you not? A. Yes, sir.

Q. Were you ever in her house? A. Yes, sir.

Q. Did you ever see Nolen Bulloch come to her home? A. No, sir.

Q. Were you ever there at a time when a man did come to her home and she took a billfold with money to the front door and gave it to him? A Well, I will have to kind of qualify that, Mr. Crawford, that somebody came there and knocked
368] on the door and Cleo went to the door and when she came back she told me that --

Mr. Rucker: Objected to, if Your Homor please.

The Court: Sustained.

Mr. Crawford: If the Court please, I have no further questions until we reach a point where the conspiracy has been established; then I would like to recall this witness.

The Court: All right.

369] BILLIE POPOVICH, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Would you please tell us your name. A. Billie

Popovich.

Q. Is that Miss or Mrs. Popovich? A. Miss.

Q. Do you know Cleo Epps? A. Yes, sir.

Q. As a matter of fact, you have been a good friend of hers for sometime, have you not? A. Yes, sir.

Q. Do you know Nolen Bulloch? A. Yes, sir.

Q. I want to recall your attention, Miss Popovich, to approximately July of 1953; were you ever in Bill's Truck Stop when Cleo operated it? A. Yes, sir.

Q. Were you ever in Bill's Truck Stop when Nolen Bulloch came in? A. Yes, sir.

Q. Do you remember the particular evening or night? A Yes, sir, it had to be on a Tuesday night because I am closed on Tuesday -- at that time.

Q. And you have been in the liquor business, is that
370] right? A. Yes, sir.

Q. And did you sometime go out there to eat or what did you do? A I went out there to eat that night.

Q. Now on this particular night that Nolen Bulloch was there did you arrive at the Truck Stop prior to the time he came in or afterwards? A. Oh, I had been there since about 4 or 5 o'clock.

Q. Where were you in the Truck Stop when he came in? A. In a booth -- just finished my dinner.

Q. Was there anybody sitting at the booth with you? A. Well, I don't remember whether they were there when he came in or they came in afterwards; I don't exactly remember that.

Q. Did someone sit with you at the booth at a later time then? A. Yes, sir.

Q. Now, Miss Popovich, did Nolen Bulloch come in by himself or with someone else? A. Alone.

Q. Where did he sit when he came in? A. He sat at the counter.

Q. Did Cleo sit with him? A. She got up and said, There
371] is Nolen Bulloch, and got over and sat down with him.

Q. All right, did you hear any of their conversation at that time? A. Well, she got kind of loud, and she said, $2000 -- she said, Oh, no; and then she said, Well, gosh, I am not violating the law.

Q. Is that all you heard or did you hear more? A. No, they moved after that.

Q. And where did they move to? A. Back behind.

Q. Did they go into a booth? A. Into a booth.

Q. Did anybody go into the booth with them? A. No.
Q. They were the only ones in that booth, is that correct? A. Only ones in the booth.
Q. Now, Miss Popovich, did you ever pay any money to Cleo Epps? A. Yes, sir.
Q. Do you recall the approximate time? A. Well, I believe it was '48.
Q. Were you operating a liquor establishment at that time? A. Yes, sir.
Q. And how much money did you pay Cleo Epps? A. I
372] believe that time it was $50.
Q. $50 a month? A. I think it was that one time and then I paid her just a little along, just whatever I could afford -- you know.
Q. And did she ever tell you to whom she was transferring this money?

Mr. Ungerman: That's objected to as being hearsay, purely, Your Honor.

Mr. Crawford: I asked the question did she ever tell --

The Court: Objection overruled; don't state what she said to you, just answer the question.

Q. (By Mr. Crawford) Did she ever tell you -- and this will call for a yes or no answer -- to whom she was delivering this money that you paid her? A. Yes, sir.

Mr. Crawford: I have no further questions at this time.

Cross-examination by Mr. Ungerman

Q. Where was the location of your business, Mrs. Popovich? A. 5700 Sapulpa Road.
Q. Is that in Creek County? A. Yes, sir.
Q. You have never operated in Tulsa County? A. No, sir.
373] Q. And you -- your place then would be just across the line by where the Turnpike entrance is? A. Just across the road on the south side.
Q. You want us to understand on the night in question you say you saw Nolen at the Bill's Truck Stop; you drove there, through the City of Tulsa, out into Tulsa County, on the east end of Tulsa County to have your dinner? A. Well, I went out

there to have dinner with her.

Q. She's a good friend of yours? A. Yes, sir.

Q. Still is? A. Yes, sir.

Mr. Ungerman: That's all.

Mr. Crawford: That's all, Miss Popovich. Thank you.

374] JOHN BILL EDWARDS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. John Bill Edwards.

Q. Mr. Edwards, you have been engaged in the liquor business for some period of time, have you not? A. Yes, sir.

Q. Now, Mr. Edwards, do you recall being at Bill's Truck stop during July of 1953? A. Yes, sir.

Q. And at that time do you recall who operated Bill's Truck Stop? A. Yes, sir.

Q. And who was that person? A. Cleo Epps.

Q. And what was the occasion for you being there in July of 1953? A. Well, I think there was no -- no reason for me to be there other than I knew her and knew she ran the place and we were just out there visiting.

Q. And who was with you? A. My wife.

Q. And did you see anyone else that you knew there that

375] evening? A. Yes, sir.

Q And who else was there that you knew? A. Mrs. Anderson and Miss Billie Popovich.

Q. Is that Lulu Anderson? A. Yes.

Q. Was she alone or with her husband? A. Oh, her husband was along, too.

Q. Is that Lefty Anderson? A. Yes, sir.

Q. Now, while you were there, Mr. Edwards, did you see Nolen Bulloch come in? A. I sure did.

Q. When he came in did he come by himself or was he accompanied by someone? A. He was alone.

Q. And you recall where he sat when he came in? A. He sat down at the counter at first, and Cleo sat down with him and they talked there a few minutes and they moved to a booth.

Q. Did any one move to the booth with them? A. No, sir.
Q. When they were in the booth they were there by themselves, just Cleo and Nolen, is that correct? A. That's right.

376] Mr. Crawford: I have no further questions of this witness at this time.

The Court: Any cross-examination?

Mr. Malloy: No questions at this time.

Mr. Crawford: You may step down.

LULU ANDERSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. Lulu Anderson.
Q. Mrs. Anderson, you are the widow of Lefty Anderson are you not? A. Right.
Q. Do you know Cleo Epps? A. I do.
Q. Do you know Nolen Bulloch? A. I have seen him.
Q. Do you see him here in the courtroom today? A. I believe that is he right down here.
Q. Right at the end of this front row here? A. Right.
377] Q. All right now, Mrs. Anderson, did you have occasion to be in Bill's Truck Stop during July of 1953? A. Yes, sir.
Q. And did your husband accompany you there that evening or did you go alone? A. I was with Lefty.
Q. Did you by chance see any people there that you knew? A. Yes, there was Billie Popovich, Bill Edwards, and his wife, Cleo Epps, and Nolen Bulloch.
Q. Now, were you in the establishment when Nolen first arrived or did he precede you there? A. He evidently was there before we arrived.
Q. And where did you see him when you entered the establishment; was he sitting at the counter or in a booth? A. He was at the counter -- just moving to the booth; he and Cleo.
Q. Was there anyone else with him besides Cleo at the

time? A. No, sir.
Q. They then went to the booth; did anyone enter the booth with them at the time? A. No, sir.
Q. You weren't able to hear any of their conversation were you? A. No, sir.

378] Mr. Crawford: I have no further questions of this witness at this time.

Cross-examination by Mr. Ungerman

Q. What booth did they move to from the counter, Mrs. Anderson? A. To the booth to the west end of the building.
Q. Where were you sitting? A. About midway of the building.
Q. Your husband was employed by Cleo Epps at that time? A. Lefty was never employed by Cleo.
Q. Oh, he wasn't --ever engaged in the whisky business with her? A. No, sir, they never were in business together.
Q. Just operated independently and separately? A. That's right.

Mr. Ungerman: That's all.

Cross-examination by Mr. Malloy

Q. One or two questions, please, Mrs. Anderson. You said Bill Edwards was out there at the time? A. Yes, sir.
Q. Was he by himself? A. His wife was with him.
Q. Did you go out there with them? A. No, sir.
379] Q. Were they out there when you got there? A. Yes, sir.
Q. You don't know how long they had been there? A. I do not.
Q. Bill Edwards in the business with Cleo Epps at that time? A. Well, that I don't know.
Q. You don't know? A I don't know.

Mr. Malloy: That's all.

A. I don't know because Lefty and I just --
Q. (By Mr. Malloy) What were you going to say about you and Lefty? A. Lefty and I just walked in the place.

Mr. Crawford: I have an additional question if I may, Your Honor.

Q. (By Mr. Crawford) Have you ever seen Nolen Bulloch at any other time when Cleo Epps was there at any place? A Yes, it was in the summer of '51.

Q. And where was this Mrs. Anderson? A. It was at a new home that Cleo Epps was building for her mother.

Q. And were you helping her work on the home at that time? A. Yes, sir, Lefty and I were laying the floor in the front bed room.

380] Q. And what was Cleo doing at that time? A. She was hanging paper in the living room.

Q. Where did Nolen Bulloch first appear? A. In the driveway.

Q. In an automobile? A. In an automobile.

Q. Do you know whether he got out of the automobile or not? A. I don't know.

Q. Did Cleo go out to the car? A. She went out; she came back in the bed room.

Q. What did she do when she came back in the bed room? A. She picked up her purse and walked out.

Q. Did she go back to the car then? A. She did.

Mr. Crawford: That's all.

Cross-examination by Mr. Rucker

Q. Now as I understand it back some four years ago you remember on a summer evening when you and Bill Edwards and his wife and your husband and Billie Popovich were out at Cleo Epps' place? A. That's right.

Q. All of you in the whisky business; I don't say you, 381] necessarily, but your husband? A. Yes, sir.

Q. In other words, just by coincidence that afternoon or that evening four or five bootleggers were there when Nolen Bulloch walked in, is that right? A. Nolen was there when we got there.

Q. All right. And you say that he was on the stool and then moved over to the booth and then he left, is that right? A. Right.

Q. You remember those details apparently pretty well; you remember it as I said it? A. Yes, sir.

Q. All right then back in 1951, that is six years ago, did you ever see Nolen Bulloch that day in '51? A. I didn't actually see him, but Cleo --

Q. That is what I wanted to know; did you ever see him

in '51; did you ever personally see him in 1951? A. No.
Q. That's all.

Mr. Rucker: We move that her testimony with reference to that be stricken, if Your Honor please.

The Court: Motion will be sustained.

Mr. Rucker: That's all.

The Court: The testimony of the witness with reference to the occasion in 1951, I believe she stated that Nolen Bulloch came to the home of Cleo Epps, it will be dis-
382] regarded because the witness now states that she didn't actually see Nolen Bulloch and her testimony would obviously be based on hearsay, somebody else told her.

Mr. Crawford: If the Court please, I would like to suggest at this time that there has already been established a conspiracy in which the defendant Nolen Bulloch is involved to the extent --

The Court: You may proceed.

Mr. Crawford: To the extent that we have testimony from Ray Farley that he was importing whisky into Oklahoma and that he was paying money to Cleo Epps.

The Court: No, I don't think you have sufficient yet to permit the testimony to be admitted.

Mr. Crawford: Then may I -- I will not question this witness further now, with permission to recall her at a subsequent time then.

The Court: All right.

Mr. Crawford: All right, you may be excused.

383] CECIL BOONE, called as a witness on behalf of the Government, testified:

Jay L. Jones et al. vs. United States of America

Direct Examination by Mr. Crawford

Q. Would you state your name, please? A. Cecil Boone.

Q. Mr. Boone, you obviously are not in very good health, is that correct? A. That's right, sir.

Q. Mr. Boone, you were engaged and have been engaged in the liquor business here in Tulsa, Oklahoma, for a great many years, have you not? A. I have, sir, yes, sir.

Q. Now, Mr. Boone, I want to direct your attention back to the years around 1950 to 1952; I want to ask you if during that time you ever picked up any money from other liquor dealers? A. I did, yes, sir.

Q. Was that money picked up on a monthly basis, Mr. Boone? A. Yes, sir, it was.

Q. Mr. Boone, do you recall who contacted you and told you to pick up this money or suggested that you pick it up? A. Well, one morning at my home Red Carter came down and said that --

Mr. Ungerman: Just a moment, please; we object to that as being purely hearsay.

384] The Court: Sustained.

Q. (By Mr. Crawford) Mr. Boone, did you ever pick up any money from Bill Curlee? A. Yes, sir.

Q. How much did you pick up each month? A. I believe, sir, $200 a month, the best of my knowledge, best I can remember.

Q. Did you ever pick up any money from Bob Massey? A. I believe $150 a month, sir.

Q. Did you ever pick up any money from Bob Bates? A. Yes, sir.

Q. How much did you pick up from Bob Bates? A. Well, he came to my station on 11th and Harvard in '52 I believe it was and gave me $200 to get them off his back, and before that he had come to the car lot on 1st and Lewis that was operated by Ed DeWeese and myself and had left at one time $150 I believe, and another time $175 or $200, and $175 and I forget just which.

Q. This money you then picked up from Ed DeWeese at that used car lot, is that right? A. That's right.

Q. So, you don't know of your own knowledge how it got there for Bob Bates, is that correct? A. No, I do not.

Q. Did you ever pick up any money from John Hood during
385] that time? A. Yes, sir.

Q. Do you know John Hood when you see him? A. Yes, sir.
Q. I don't know whether the witness is going to be able to turn his neck in such a way as to see John Hood --

The Court: Well, let's let it rest with his statement that he knows him; it isn't necessary to further identify him.

Q. (By Mr. Crawford) All right, sir, did you ever pick up any money from Harry Miller? A. Yes, sir.
Q And how much did you pick up from Harry Miller? A. $200 a month.
Q. For several months? A. Yes, sir, for several months.
Q. These people were all in the retail liquor business were they not? A. I think so, sir, yes.
Q. Did you ever pick up any money from Jackie Hood? A. Yes, sir.
Q. Did John Hood deliver the money to you for Jackie Hood?

Mr. Malloy: I object to that, if Your Honor please;
386] how would he know who he was delivering the money for?

The Court: I will sustain the objection.

Q. (By Mr. Crawford) How did the money reach you from Jackie Hood?

Mr. Malloy: Now, wait a minute, if Your Honor please, the same question, he is trying to arrive at the same answer; it was hearsay, he couldn't possibly know.

The Court: I will sustain the objection.

Mr. Crawford: If the Court please, John Hood is a defendant in this action.

The Court: That makes no difference; I will sustain the objection.

Q. (By Mr. Crawford) Did you have a conversation with John Hood with regard to payments by Jackie Hood?

Mr. Malloy: Just -- yes, or no.

Mr. Crawford: Just a moment; I think the Court will instruct him.

The Court: Yes, I will have to admonish the witness --

Mr. Malloy: I'm sorry, Your Honor.

Q. (By Mr. Crawford) Your answer was yes? A. Yes.
Q. What did John Hood tell you with regard to Jackie Hood?

Mr. Malloy: I renew my objection, if Your Honor please.

387] The Court: Overruled.

Mr. Malloy: Exception.

A. Well, he said there was no use making all the rounds, that he would pick it up and give it to me.
Q. (By Mr. Crawford) And who did John pick it up from --

Mr. Ungerman: Wait --

The Court: I think that would call for hearsay.

Q. (By Mr. Crawford) Well, who did John tell you he was picking it up from?

Mr. Ungerman: That is objected to on the ground it is purely hearsay.

The Court: No, I think Hood -- he can testify to any conversation had with Hood, a defendant in the case, and bear in mind, Ladies and Gentlemen of the Jury, that the evidence should be considered only against the defendant until such time as the proof may be adequate to establish that other defendants were involved in the alleged conspiracy.

Mr. Malloy: If Your Honor please, I am going to object on the further grounds that there has no proper predicate been paid for the question; he must first establish whether or not he had any conversation with Hood about anybody else first.

The Court: Objection overruled.

Mr. Malloy: Exception.

The Court: What was the last question?

388] (Thereupon the Reporter read the question.)

The Court: You may answer the question.

A. He said he was picking it up from Jackie.
Q. (By Mr. Crawford) Did he pay you for Jackie as well as himself? A. Yes, sir.
Q. Now, Mr. Boone, what did you do with this money that you picked up monthly? A. Well, the first month I turned it over to Arthur Graves.
Q. Who was Arthur Graves at that time? A. He was lieutenant of the vice squad.
Q. And approximately how much money did you turn over to this lieutenant in the vice squad at that time? A. Well, sir, I don't know, it was several hundred dollars.
Q. All right, now, Mr. Boone, to whom did you turn the money over to the next month? A. Well, the next month I made the rounds, and they informed me that Red Carter had been there, each one that I would contact said that Red Carter had --

Mr. Page: I move that be stricken as hearsay.

Mr. Crawford: May I clarify that with regard to the particular defendants?

Q. (By Mr. Crawford) Did John Hood tell you that? A. Yes, sir, they all told me that, uh huh.
Q. Now, Mr. Boone, what did you do next; did you contact
389] Carter? A. No, the next thing I done was sent to Arthur Graves and asked him about it, and told him that I didn't --

Mr. Hickman: We object to any conversation with Arthur Graves on the ground that it is incompetent, irrelevant and immaterial.

The Court: Sustained, not on the ground it is immaterial; it would be hearsay; Arthur Graves is not a defendant.

Q. (By Mr. Crawford) Did you continue to pick up money from these various liquor dealers, Mr. Boone? A. I did, yes, sir.

Q. And were the amounts approximate to those that you have already related? A. Well, now, wait a minute, -- some of them I did and some of them I didn't; Red Carter done most of the picking up after that -- I backed off.

Q. But you did continue to pick up from some, is that right? A. From some, yes.

Q. And then whom did you turn your money over to? A. I turned it over to Red Carter.

Q. Did you ever pick up any money from Slim Mathis? A. Yes, sir.

Q. Was that in 1949, '50 or '51, or in that area? 390] A. I believe it was '51.

Q. Now, Mr. Boone, when you were picking up this money monthly from the various liquor dealers you have mentioned, did you turn it over to any other police officers besides Arthur Graves? A. No.

Q. He was the only one you handed it to personally? A. That's right.

Q. Mr. Boone, did you ever receive any publicity during the time that you have related to us around 1949 and to '52 in the Tulsa Tribune with regard to your activities?

Mr. Rucker: Object to that as incompetent, if Your Honoe please.

The Court: Overruled.

A. Well, I got so much publicity -- I don't know, I would say I did, yes.

Q. Did you make any endeavor to stop that adverse publicity? A. No, not so far as the liquor dealings were concerned, no, sir.

Q. Did you ever give any money to Nolen Bulloch? A. Yes, sir.

Q. When was that, Mr. Boone? A. Well, I believe it was in 1950.

Q. And whereabouts was it at the time? A. In the court-391] house.

Q. And did you have a conversation with Bulloch at that time? A. Yes, I did.

Q. And how much money did you deliver to him? A. $100.

Q. Was this money in cash? A. Yes, sir, $100 bill.

Q. Was there anyone else present at the time you gave him the $100. A. No, we stepped in the rest room.

Q. Now, Mr. Boone, I want to ask you this: Did you at any other time ever deliver any money to someone else for delivery to Nolen Bulloch?

Mr. Rucker: Object to that, if Your Honor please, as incompetent and it is of necessity hearsay.

Mr. Crawford: I am speaking of an act, Your Honor, -- not --

The Court: Overruled; I will overrule it.

A. Yes, I did.
Q. To whom did you give that money? A. Gave it to Mr. Lassiter.
Q. Is that O.C. Lassiter? A. O.C. Lassiter.
Q. How much money was that? A. $100.
392] Q. Was that money given to stop publicity?

Mr. Rucker: Objected to as leading and suggestive; he asked him what it was given for.

The Court: I will sustain that objection.

Q. (By Mr. Crawford) Were you receiving adverse publicity at that time? A. Beg pardon?
Q. Were you receiving adverse publicity from Nolen Bulloch through the Tribune at the time you gave O.C. Lassiter the $100? A. Plenty of it, yes, sir.
Q. And did the publicity stop soon after you gave the $100 to O.C. Lassiter? A. It did.

Mr. Crawford: You may examine.

Cross-examination by Mr. Rucker

Q. I want to know what publicity you were trying to stop when you gave $100 to Mr. Bulloch? A. Well, my wife and I were having a divorce proceedings and they were going to issue a financial statement and I didn't want it in the paper -- I didn't want any more publicity.
Q. In other words you say -- in what year was that? A. I believe it was 1950.

393] Q. You say you gave Nolen Bulloch $100 not to have your financial statement published in the newspaper? A. That's right.

Q. Did you know there were -- did you make a deal with the Tulsa World? A. No, sir.

Q. You knew there was another newspaper here, did you not? A. Yes, sir.

Q. Did you make a deal with any of the other reporters on the Tribune? A. No, sir.

Q. Did you know there were a number of other reporters on the Tribune? A. I did.

Q. All right, now you say you gave Mr. Lassiter $100 to give to Nolen Bulloch, is that right? A. That's right.

Q. When did you do that? A. Well, sir, I don't remember whether it was before or whether it was after -- I don't remember exactly what it was for.

Q. You don't remember what that was for? A. No, sir, I have tried to remember and tried to think but I can't remember what it was for.

Q. Didn't you receive both before and after that a terrific amount of publicity in the paper about your criminal activities? A. Well, I wouldn't know about that; I

394] don't think so.

Q You don't think so? A. No.

Q. Wasn't there hardly a month that went by that you were written up as being one of the leading bootleggers here in the City? A. Oh, that went on all the time.

Q. Because you were, weren't you? A. No, I wasn't.

Q. And that publicity didn't bother you, did it? A. No, it didn't.

Q. You didn't pay Nolen Bulloch to not write you up on the liquor business, did you? A No, I didn't.

Q. You didn't mind that, did you? A. No, I didn't.

Mr. Rucker: If Your Honor please, we move --

A. Because everybody knew it anyway; there was no use --

Q. (By Mr. Rucker) But everybody didn't know your financial statement, huh? A. That's right.

Mr. Rucker: If Your Honor please, we move that that be stricken -- all of this testimony, as incompetent, not tending to prove or disprove any issue here alleged.

395] The Court: Overruled.

Mr. Malloy: I just want to ask one or two questions.

Cross-examination by Mr. Malloy

Q. Mr. Boone, you said that you paid Mr. Lassiter $100 when was that? A. It was sometime in 1950.

Q. That had to do with a divorce action pending between you and your wife? A. That's right.

Q. Mr. Lassiter was a participant in the divorce case wasn't he? A. No, sir.

Q. Did he represent you or your wife? A. No, sir.

Q. He had been your attorney, hadn't he? A. He had, but not in this; Mr. Clayton was the attorney in the divorce proceeding.

Q. Was at that same time Mr. Lassiter was representing you wan't it? A. Well, he represented my liquor cases, yes.

Q. And let me ask you this question, please: Now when you say you had picked up this money from John Hood, what year was that? A. Oh, I would say '51.

Q. Could that have been before that or later than that?
396] A. Well, it could have been '50 -- or '51; I just don't remember exactly.

Q. How many times did you say you picked it up from him? A. Well, I only picked it up about twice.

Q. How much -- pardon me, I am sorry. A. And then Red Carter took over.

Q. You say you yourself, you claim you picked it up from John Hood twice? A. Just about twice, that's right.

Q. You don't know whether it was '50 or '51? A. No, I don't.

Q. Where do you say that you picked it up? A. At his home on Haskell and Quincy, I believe, or Haskell Place and Quincy.

Q. What time of the year? A. Along in the summer.

Q. You are sure it was summer? A. Yes, along in the summer.

Q. Was anybody present at the time that you allegedly gave this money to Mr. Hood -- or picked it up, rather? A. Well, his wife was there, I think.

Q. Wasn't anybody else besides Mr. Hood and his wife, was there? A. I think that's all.

397] Q. You never picked up any money from Jackie Hood yourself, did you? A. No, I didn't.

Redirect Examination by Mr. Crawford

Q. Mr. Boone, did you ever give any money to the defendant Jack Gott?

Mr. Ungerman: We object to that as leading and suggestive, if the Court please.

The Court: Overruled.

A. Well, not as a pay-off, no.
Q. Did you ever give him any money whatsoever?

Mr. Hickman: Same objection.

The Court: Just a minute, overruled.

A. Yes.
Q. (By Mr. Crawford) What was the amount of that money, Mr. Boone?

Mr. Ungerman: We object on the further grounds as incompetent, irrelevant and immaterial; the witness has testified he didn't give this man any money on pay-off.

The Court: You are dealing here with alleged conspiracy to engage in the whisky business. I can't tell whether it would have any connection with the charge made, or not; I will let him answer -- it will have to be connected up otherwise or the jury will be instructed not to consider it.

398] A. Well, I gave him presents, on Christmas I called him and he met me and I gave him $50 for him and $50 for his brother, and he said his brother could use it and --
Q. (By Mr. Crawford) Do you remember what year this might have been, Mr. Boone? A. I think it was about '48, somewhere along in there.
Q. Was Jack Gott in a position to raid you in your liquor business at that time?

Mr. Ungerman: That;s objected to as incompetent, irrelevant and immaterial.

The Court: Sustained.

Q. (By Mr. Crawford) Was Jack Gott a police officer at that time?

Mr. Ungerman: Objected to.

The Court: Overruled.

A. Why, yes, sir.
Q. (By Mr. Crawford) He was a police officer at that time?
A. He was a police officer at that time.
Q. Do you know what detail he was assigned to at that time?
A. No, sir.
Q. Did Jack Gott ever raid you in your liquor business?
A. Yes, sir.
Q. Did he ever raid you after you gave him the presents?
A. No, sir.
399]
Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Mr. Boone, when did you say Jack Gott raided you?
A. Oh, I don't know, he has stopped me on the street and raided me several times; I don't remember.
Q. Well, when was it that you gave him the $50 at Christmas? A. I believe it was '48 -- around '48.
Q. And you say he never raided you after that? A. Not that I can remember of, no.
Q. Well now, you may be mistaken -- couldn't you, because he didn't get on the raiding squad until 1953, did he? A. I don't know, sir.
Q. Well, if he -- if he didn't go on the squad, or be in that department of the Police Department until 1953, and the raid took place before that, --

Mr. Crawford: If the Court please that is assuming a fact not yet proven, not yet in evidence, that he didn't go in until 1953. This chart only goes back to 1950. Mr. Hickman's question is about something that he says -- Mr. Boone says happened in 1948.

The Court: Objection is overruled.

Q. (By Mr. Hickman) You don't know what squad he was on at that time, do you; you weren't paying off any money for protection were you Cecil? A. I was, yes, sir.

400] Q. Do you mean to Jack Gott? A. No.

Q. You were paying off for protection? A. I was, yes, sir.

Q. In 1950 and '51? A. No, in '48 and '49, I believe along in there I was paying $400 a month.

Q. Who to? A. To Luther Martin and Claude Davis.

Q. And then you afterwards collected the money? A. That's right.

Q. And paid it to Arthur Graves you say? A. Well, I paid it to Red Carter, and what he did with it from there I don't know.

Q. Oh, you never paid any money to Arthur Graves? A. Well, one time, yes.

Q. What year was that? A. Well, it was right after he taken office.

Q. Well, he took office in 1950, didn't he? A. I think so, yes.

Q. And he went out of office the same month the Jay Jones went in as police commissioner the first time, in May of '52, isn't that right? A. I think so.

Q. But by the time May of '52 was reached you were not

401] collecting money any more, is that when your testimony is?

A. That's right.

Q. But you did collect in '50 -- 1950? A. Yes.

Q. That's your testimony under oath, is it? A. And '51, yes, sir.

Q. Do you remember when you testified in the Municipal Criminal Court of the City of Tulsa on the 3rd of April, 1951, in the trial of a case against Bill Moulton? A. No, sir, I do not.

Q. Well, do you know Bill Moulton? A. I do, yes.

Q. Was he someone working for you? A. No.

Q. What was your connection with him? A. Well, I don't think there was any connection at that time, sir; he had worked for me back in '47 and '48.

Q. All right, I will ask you if upon a trial of a case in the Municipal Court against Bill Moulton on April 3rd, 1951, with Judge C.M. Warren the Judge presiding, you were not asked by the Judge this question: "Mr. Boone, it is reputed that you

had been collecting money from other men engaged in the liquor business in the City of Tulsa and making payments thereof to the Police Department; is that true or not? And your answer was, Let's have that again. The question read to this
402] witness by the reporter. Your answer, no, it certainly is not.

Did you give that answer to that question at that time?
A. I don't remember.

Q. You don't remember it? A. No, sir, I do not.

Q. Do you remember a woman court reporter named Sadie Gelfand that took your testimony, right opposite you there in the courtroom? A. No, sir, I do not.

Q. You were then asked this question: Have you ever collected or solicited from any other men engaged in the liquor business in the city the sums of money which you pretended you were going to pay over to the Police Department? And your answer, No, I have never collected any money from anybody for anything.

Do you remember giving that answer to that question?
A. When was that?

Q. April 3, 1951; I am reading from a transcript of the court reporter.

Do you remember it now, Cecil? A. No, I don't.
403] Q. Then you were asked, and you have never solicited any money; and you answered, No, sir; and you were asked those questions and gave those answers on April 3rd, 1951. A. Well, if I was I don't remember it -- I don't remember of a Judge ever asking me a question; in fact, I don't think I was ever on the witness stand but once in the Municipal Court of Tulsa.

Q. All right, you have been convicted of liquor violations dozens of times, haven't you? A. No.

Q. Doesn't it stem from October 30, 1929, your first conviction for liquor in Greenwood County, Kansas? A. That's right.

Q. You got a year and a day? A. That's right.

Q. Well, you have been convicted more than a dozen times haven't you, Cecil? A. No, not --

Q. All right, I will ask you -- A. I don't think so.

Q. I will ask you if you were not convicted in Tulsa on January 6, 1931, for violation of the National Prohibition Act in this courtroom? A. Yes, sir.

Q. And you were sentenced and fined? A. Sixty days
404] and $100.
Q. That's right, you remember that? A. Yes, sir.
Q. Back in 1931? A. That's right.
Q. Then two years later in 1933 you were convicted again of the National Prohibition Act violation were you not? A. But I don't remember that, no, sir.
Q. Well, you were arrested at Pawhuska, Oklahoma, do you remember that now? A. Bit I wasn't convicted, no, sir.
Q. You weren't? A. No, sir.
Q. Well, on January 17, 1941, were you given eighteen months sentence in this court? A. Yes, sir.
Q. For violation of the Internal Revenue Laws pertaining to liquor? A. I was, yes, sir, but that is a long ways from a dozen.
Q. From what? A. That's a long ways from a dozen.
Q. Well, I have only gone over one page, Mr. Boone; I have four here. A. Okay, let's hear the rest of them.
Q. All right, you were convicted on July 7, 1941, for
405] Internal Revenue violation and sentenced to eighteen months at the Medical Center at Springfield, Missouri? A. That was when
Q. You were received July 7, 1951.

The Court: That's the same one you asked him about, Mr. Hickman.

A. That's the same -- that is derived from the same case; I was transferred from Leavenworth to the Medical Center.
Q. Okay. Then on February 6, 1943, you were convicted of violation of the Liquor Enforcement Act and sentenced to twelve months in the custody of the Attorney General? A. That's right.
Q. Then on August 25, 1943, under the Liquor Enforcement Act you were sentenced to one year, released April 3rd, 1944, is that right? A. Well, that was the same one you asked me about there.

Mr. Crawford: If the Court please, I think Mr. Hickman is reading from an FBI arrest record, and every time a man's prints are checked, or he moves from one institution to another one, there is another entry made; and he is reading one entry after another.

The Court: Let's ask him this question: How many times do you say you have been convicted, Mr. Boone?

A. Well, let's see, once in Kansas -- this will take some food for thought here. But I still say it isn't a dozen.

Q. (By Mr. Hickman) Well, do you think it would be ten times?

The Court: I don't think it is a dozen either; I am familiar with a number of those cases; how many times, would you guess at it, about five or six?

A. Well, I have been convicted as I remember it three times in the Federal Court.

The Court: I believe that's a little conservative but --

A. Well, to the best of my memory --

The Court: Yes, sir.

A. But I would say five or six times, something like that, I have been arrested for liquor.

Q. (By Mr. Hickman) You have also been arrested in the Municipal Court of the City of Tulsa? A. Yes, I have been arrested.

Q. Numerous times? A. In the Municipal Court, -- yes.

Mr. Hickman: That's all.

* * * * *

409] DALE HINES, recalled as a witness on behalf of the Government testified:

Direct Examination by Mr. Crawford

Q. Mr. Hines, yesterday when you were being examined by me on your testimony I understand from a conversation that we had with you last night that you didn't quite understand a question, is that correct? A. Yes, sir.

Q. Mr. Hines, I want to ask you again, did you ever give any money to Cleo Epps? A. Yes, sir.

Q And was it at a time when you were operating out on the Tulsa County, Creek County line? A. Yes, sir.

Q. And about how much money did you give her? A. $50
410] I think.

Mr. Hickman: I can't hear.

The Court: Talk into the microphone.

A. $50.

The Court: I don't believe that thing is operating; where is our operator; speak up so you can be heard, Mr. Hines.

A. $50 a month.

Q. (By Mr. Crawford) $50 a month? A. Yes, sir.

Q. For approximately how many months? A. Well, now, I can't be exact on that; I would say eight months, something like that.

Mr. Crawford: I have no further questions.

The Court: Cross-examine.

Cross-examination by Mr. Hickman

Q. When was this, Mr. Hines -- what year? A. Early part of 1948.

Q. And where was your establishment? A. It was 61st Street I believe; it is in Oakhurst, Creek County.

Q. Is it in Creek County? A. Yes, sir.

Q. It is not in Tulsa County? A. No, sir.

411] Q. Were you at that time engaged in the liquor business or the gambling business? A. Both.

Q. Both? A. Yes, sir.

Q. At whose suggestion did you hand money to Cleo Epps -- was it your idea or hers? A. I don't recall -- I -- she and Roy Farley were doing the business.

Q. Who? A. Roy Farley -- I was just a partner -- I don't know -- I don't recall how it even came up.

Q. In other words, when you handed her money you had no understanding with her about anything? A. No.

Mr. Hickman: That's all.

Mr. Crawford: That's all.

The Court: All right.

412] HARRY MILLER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Harry Miller.

Q. Mr. Miller, how long have you lived in and about the City of Tulsa? A. Well, I don't know how long, since 1916.

Q. You were engaged in the liquor business here for a long period of time, were you not? A. Yes, sir.

Q. Were you engaged in that business back around 1948 and 1950? A. No, I wasn't here in '48; I came back in the last part of '49.

Q. Were you engaged in the liquor business here in 1949? A. The last three months.

Q. And then you were engaged in it in 1950 and '51, is that correct? A. Yes, sir.

Q. Now, Mr. Miller, do you know Cecil Boone? A. Yes, sir.

Q Did you know him back during that period? A. Yes, sir.

Q. And during that period, Mr. Miller, did you ever pay
413] any money to Cecil Boone? A. The last half of '51.

Q. And how much money per month did you pay Cecil Boone? A. The best I can remember it was $150 a month.

Q. Could it have been as much as $200 a month? A. I don't believe so back there.

Q. Did you pay Cecil Boone any money thereafter? A. Yes, sir.

Q. How much did you pay him thereafter? A. Two hundred.

Q. Two hundred a month? A. Yes.

Q. And in what year was that, Mr. Miller? A. Well, I don't remember -- well, let's see, it would be '50 or '51.

Q. And do you recall how many months you paid him in '50 or '51? A. Well, it was either six or seven months -- eight months maybe.

Q. And where did you deliver the money to Cecil Boone? A. Well, most of it was delivered at 11th and Harvard, filling station.

Mr. Hickman: I didn't hear the answer to the question; will you please repeat.

414] A. Most of it was delivered at 11th and Harvard, filling station.

Q. Was that filling station located on the southwest corner of 11th and Harvard? A. Yes, sir.

Q. Did you deliver money to Cecil Boone at any other location besides that? A. I never delivered it; he came to the house and picked it up once or twice.

Q. Now, Mr. Miller, you are presently serving a sentence, are you not, from this Court, is that correct? A. Yes, sir.

Q. And that is on a perjury charge? A. Yes, sir.

Q. Which grew out of the transactions we have just discussed, is that correct? A. That's right.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Where were you in 1948, and the first nine months of 1949? A. I was operating a small grocery store at Mano, Missouri.

Q. You came back here in the latter part of '49? A. That's right.

Q. And you say you paid Cecil Boone the money in the
415] latter part of '49? A. I would say it was the last four -- three or four months of '49.

Q. And then you paid him some in 1950? A. Yes, sir.

Q. Up to what point in 1950? A. Well, I would say it was the middle of the year.

Q. You think it was in the summer months of 1950? A. Probably August or September.

Q. Is that when you stopped paying him? A. That is when I stopped.

Q. How long altogether were you in the liquor business in and around Tulsa? A. Well, I guess most of my life except the four years I was in Missouri.

Q. You mean beginning as far back as 1916? A. That's right.

Q. Have you ever been convicted of a violation of the Prohibition Laws? A. Yes, sir.

Q. How many times? A. I don't know.

Q. Approximately? A. I couldn't guess; it has been so many.

416] Q. You mean it is beyond your calculations? A. That's right.

Q. And when you would get out of a prison sentence you would go back in the liquor business, is that right? A. That's right, yes, sir.

Q. Were you convicted in the Municipal Court of Tulsa under arrests of the Police Department? A. Yes, sir.

Q. Many times? A. Many times.

Q. You were raided many times by the Police Department? A. Yes, sir.

Q. Over what period of time? A. Well, I couldn't say what period of time.

Q. Over a period of years? A. Years, yes, sir.

Q. All right, are you confined in a penal institution at this time? A. Yes, sir.

Q. Where? A. Springfield, Missouri.

Q. You are serving a sentence of five years, on a charge of perjury? A. Serving a sentence of one year.

Q. One year; did you plead guilty to a charge of perjury? 417] A. I guess I did.

Q. Well, were you guilty of perjury when you plead guilty to perjury? A. Yes, sir, -- yes, sir.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. On this perjury charge that you pleaded guilty to, Mr. Miller, you were charged, when you were called before the Federal Grand Jury in January of 1957 with denying that you paid money to Cecil Boone, is that correct? A. Yes, sir.

Q You later came back before the Grand Jury and admitted that you had, is that correct? A. That's correct.

Mr. Crawford: I have no further questions.

The Court: That's all.

Cross-examination by Mr. Hickman

Q. In other words you say that when you first appeared before the Grand Jury and under oath you testified falsely, is that what you want us to understand? A. That's correct.

Mr. Hickman: That's all.

The Court: That's all.

418] ROBERT BATES, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Robert Bates.
Q. Mr. Bates, you have been engaged in the retail liquor business have you not? A. Yes, sir.
Q. And over a period of years? A. Yes, sir.
Q. Now, Mr. Bates, back around 1949 did you ever pay any money to a liquor dealer or to a bondsman or police officer? A. No, sir.
Q. Did you pay any money to any one? A. I misunderstood your question just a minute ago.
Q. My question a minute ago was this: Back around 1949 did you ever pay any money to a bondsman or a police officer or a liquor dealer? A. Yes.
Q. Did you make regular payments? A. For a short while.
Q. How long a period of time? A. Three months.
Q. And how much were those payments? A. Twice, $200;
419] once, $175.
Q. To whom did you make those payments? A. Cecil Ray.
Q. Do you know what he did with the money? A. No, sir.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Who is Cecil Ray? A. He was a policeman at that time.
Q. And when was this? A That was in 1949.
Q. You paid him each time A. Yes, sir.

Q. You never paid any money to any one else? A. Never.
Q. You did this over a period of three months you say? A. Yes, sir.
Q. Were you a liquor dealer at that time? A. Yes, sir.
Q. Did you have a retail liquor dealer stamp? A. Yes, sir.
Q. Issued by the United States Government? A. Yes, sir.
Q. Where was your place of business? A. My home, 123
420] South 68th East Avenue.
Q. Is that out on the Sand -- A. No, that's east.
Q. Is that out of the city limits of Tulsa? A. I believe it was at that time.
Q Where did those payments to Cecil Ray take place? A. There by the caterpillar place at the corner of Admiral Street and Sheridan.
Q. That happened in the year 1949 for a period of three months? A. Yes, sir.
Q. Can you be more definite as to the period of the year, the calendar year? A. It was before April.
Q. Before April? A. I would say February, March and April, or January, February and March.
Q. What position did Cecil Ray occupy? A. He was just a policeman; detective I guess.
Q. Did you know? A. I got acquainted with him after he called me and talked to me.
Q. Did you lend him the money? A. No, sir.
Q. Did you ever get any of it back from him? A. No, sir.
421] Q. Had you been raided? A. Several times before that.
Q. Were you arrested after that? A. Yes, sir.
Q. By the police? A. Yes, sir.
Q. How many times? A. I couldn't remember.
Q. Do you mean they are so many, so numerous that you can't remember them? A. That's right.

Mr. Hickman: That's all.

Mr. Malloy: One question, please.

Cross-examination by Mr. Malloy

Q. You testify now that you paid some money sometime in 1949 to a Cecil Ray, is that right? A. Yes, sir.
Q. Please, sir, -- you have also testified on cross-examination that you have never paid any money to anybody else

is that right? A. That's right.

Q. Did you ever pay any money to Cecil Boone? A. No, sir.

Q. If Cecil Boone testified under oath that you paid him
422] money, that isn't -- he isn't telling the truth, is that right? A. I never paid Cecil Boone any money.

Mr. Malloy: That's all.

Redirect Examination by Mr. Crawford

Q. Well, Mr. Bates, you don't know what Mr. Ray did with the money -- whom he delivered it to, do you? A. No.

Q. During the time that you paid him were you raided by the city? A. No.

Q. But you were raided before you paid and after you paid? A. Yes, sir.

Mr. Crawford: That's all; you may be excused.

The Court: That's all.

Mr. Malloy: If Your Honor please, at this time we move to strike all this testimony for the reason that Cecil Ray as far as I know has not been -- I know he isn't a defendant; I know he isn't a co-conspirator -- not within the issues of this case at all -- there has been no connection or tie-up between Bates and Cecil Boone who testified here yesterday, if that is the way they are trying to bring it in, -- I just don't see --

423] The Court: I think the evidence is not material to any issue unless that can be connected up later.

Mr. Crawford: The Government intends to connect it up, Your Honor, with a witness in just a few minutes.

The Court: The motion is overruled. However, it may be renewed if it is not connected.

HERSCHEL MATHIS, called as a witness on behalf of the Government, testified:

Jay L. Jones et al. vs. United States of America

Direct Examination by Mr. Crawford

Q. State your name, please. A. Herschel Mathis.
Q. Mr. Mathis, you are sometimes known as Slim, are you not? A. Yes, sir.
Q. You have been engaged in the liquor business in and around the City of Tulsa for a great many years, is that correct? A. Yes, sir.
Q. Now, Mr. Mathis, directing your attention back to the years around 1949 to '51, did you ever make any payments to Cecil Boone? A. Yes, sir.
Q. And about how much did you pay each month? A. $100
424] Q. And do you recall over how long a period of time?
A. Two times.
Q. And do you recall where those payments were made?
A. Well, I couldn't give you the exact address, no; it was out east of town here.
Q. And why did you happen to make those payments to Mr. Boone?

Mr. Rucker: Objected to as calling for a conclusion.

Mr. Shortridge: Objected to as calling for a conclusion, Your Honor.

The Court: Sustained.

Q. (By Mr. Crawford) Prior to the time you made those payments to Mr. Boone did you have a conversation with Mr. Boone? A. Yes, sir.
Q. And prior to that time were you being raided by the City Police Officers? A. Not for one month I wasn't.
Q. And which month was that? A. The first month.
Q. The first month you paid -- would you answer, please?

Mr. Malloy: If Your Honor please, this is not responsive to the question; the question was whether before he paid he was being raided.

425] The Court: Do you intend that --

Mr. Malloy: Object to it as not responsive.

The Court: Objection is overruled.

Q. (By Mr. Crawford) My question, Mr. Mathis, at this time is this: Prior to the first month that you paid Cecil Boone had you been raided by the City Police? A. Yes, sir.

Q. And during the first month that you paid you were not raided, is that correct? A. No, sir.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Mr. Mathis, you have been convicted a great many times of liquor violations? A Yes, sir.

Q And since this year that you spoke of which was in 1950, -- did you say? A. I don't just recall what year it was.

Q. Well, was it in the year 1949 or 1950 or '51? A. I just couldn't be sure about that.

Q. Well, was it about six or seven years ago? A. Somewhere in there.

Q. And you paid Cecil Boone $100 a month for two months? A. Yes, sir.

Q. And then you stopped paying him? A. Oh, I paid my
426] payment, and they knocked me off anyway and I got mad and just told them to go to the devil.

Q. In other words, after you paid you got knocked off, so you decided you were making a poor investment with Cecil Boone? A. That's right.

Q. How many times had the police officers of the City of Tulsa since then knocked you off as you recall it? A. So many times I couldn't tell you.

Mr. Hickman: That's all.

Cross-examination by Mr. Rucker

Q. Mr. Mathis, was there suspicion in your mind that Cecil Boone was putting that money in his picket?

Mr. Crawford: If the Court please, he is entitled to suspicion anything, but he is not entitled to ask those questions; if he is entitled to ask those questions we would like to have the same privilege.

Mr. Rucker: I withdraw the question.

The Court: I was about to suggest, you state your objection, and if I want to hear argument on objections I will call for argument.

427] The objection is sustained, the evidence is not competent; the question is not a proper question.

Q. (By Mr. Rucker) Mr. Mathis, are you in the liquor business today? A. Yes, sir.
Q. Isn't your business better today? A. No, I wouldn't say it is.
Q. But it is still good, isn't it? A. Yes, about the same.

Mr. Rucker: That's all.

Cross-examination by Mr. Hickman

Q. Since you have appeared as a witness before the Grand Jury in this investigation, I mean since January, have the Federal Officials done anything to interfere with the operation of your liquor business? A. I don't know just what you mean now.
Q. I mean, Federal Officers, since January of this year, have they bothered you? A. Yes.
Q. When? A. I believe it was in January.
Q. It was in October, wasn't it -- last year? A. It was when they got my car.
Q. Well, that was in October, wasn't it, of last year?
428] A. It might have been; I just don't know -- I don't remember.
Q. As you call it, you have not been knocked off by the Federal Officers since you appeared before the Grand Jury, have you? A. Well, it ain't their fault.
Q. Do you mean by that that they can't catch you?
A. They just haven't caught me; I will put it that way.
Q. They haven't caught you? A. That's right.
Q. And you carry on your business outside of the limits of the City of Tulsa? A. I carry it on just wherever I want to.
Q. Well, do you have a place where you keep your liquor that you sell? A. Yes.
Q. Do you have that place outside of the City of Tulsa?
A. Yes.
Q. Out in the county some place? A. Yes.

Mr. Hickman: That's all.

Mr. Crawford: That's all, Mr. Mathis.

The Court: That's all, Mr. Mathis.

Mr. Crawford: One further -- let me ask one further question, Mr. Mathis, if I may.

429] Redirect examination by Mr. Crawford

Q. The first time I ever -- you were ever asked by any member of my office or Federal Officer if you paid money to Cecil Boone was yesterday, is that right, Mr. Mathis?
A. That's right.

Mr. Crawford: That's all.

Mr. Gotcher: If Your Honor please, yesterday you said you would admonish the jury every now and then that certain testimony against certain defendants would be admitted against each defendant, and I would respectfully suggest and request that Your Honor again tell the jury that same thing that you intimated you would tell them -- all along during the trial.

The Court: I don't believe that this would be an appropriate time; I will wait until an occasion arises that seems to suggest that I do that.

Mr. Gotcher: Thank you.

430] LEE UTO, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Lee Uto.
Q Mr. Uto, on some occasions you have been engaged in the retail liquor business, have you not? A. I have.
Q. Were you ever associated with Cecil Boone? A. Yes, sir.
Q. Where was the location of your establishment at that time? A. That was 316 East 3rd, Lomo Hotel.
Q. Lomo Hotel? A. 316-1/2.
Q. During what years were you associated with Cecil Boone at the Lomo Hotel? A. I believe it was 1950; it may

have been overlapping into '51, I'm not quite sure when I did leave there; I know it was about nine or ten months.

Q. Were you selling liquor from that address? A. I was.

Q. Were you an equal partner with Cecil Boone? A. I was manager of the hotel and concession of the whisky business.

Q. And did you split the profits? A. Yes, sir.

431] Q Did you pay from your share of the profits any additional money to Cecil Boone? A. Yes, I think it was $75 a month that I paid Mr. Boone out of my commission.

Q. How many months did that take place? A. Well, I can't quite recall; the first two or three months, I don't believe I paid him anything; it must have been in the latter part, about six or seven months, something like that.

Q. What year, Mr. Uto? A. I believe that was in '50.

Q. 1950? A. Uh huh.

Q. And were these payments made to Mr. Boone there at the Lomo Hotel? A. Yes, sir.

Q. Did he come and pick them up or did you deliver the money to him? A. Well, as a rule I would go to his home and take our day's receipts, check with him what I had done that day, and at the end of the month I would give him $75, which was what I was giving at the time, $75 a month.

Q. During the time you were paying $75 a month, were you raided by the City Police Officers? A. I believe, sir, I can't recall, that has been quite a while ago, but I

432] believe we were raided some on several occasions but I can't recall how many raids.

Q. Were you raided more before you paid the $75 a month than you were after you started paying it? A. I believe we were, sir.

Mr. Crawford: Thank you.

Cross-examination by Mr. Hickman

Q. How long have you been in the liquor business, Mr. Uto? A. Well, off and on I would say from around '48 I worked for different people that had little hotels.

Q. And handled liquor? A. Yes, sir.

Q. Did you supply yourself with a Federal Retail Liquor Dealers stamp? A. Well, no, --

The Court: Speak a little louder.

A. I believe, sir, that I was -- other people had the stemps; I was just simply an employee the first few years, that is '48 and '49.

Q. But the people in the liquor business for whom you worked either on a commission basis or a salary basis, had retail liquor dealer stamps at their places of business, is that right? A. Well, now, I couldn't swear to that, sir;

I don't remember whether they had stamps or not in them
433] days, '48 and '49; I don't know whether that was required, stamps, I couldn't swear to that.

Q. Is this place you call the Lomo Hotel on South Elgin? A. No.

Q. Where? A. 306-1 2 East 3rd Street.

Q. Well, is that between Detroit and Elgin? A. Yes, sir.

Q. That would be on the south side of 3rd Street? A. It would.

Q. Is that near the alley between Detroit and Elgin? A. In fact it is right on the alley.

Q. On the alley, and was that a liquor establishment operated by Cecil Boone and you? A. It was operated by Cecil Boone and I was only a manager there; I run the hotel for him.

Q. Was it a place where people could go and buy liquor? A. Yes, sir.

Q. And you would sell it to them? A. That's right.

Q. Well, why were you giving any money out of your
434] commissions to Cecil Boone? A. Well, all I know, he said that the heat would be off, or I wouldn't be raided so often; it was just a pinch, or he was taking care of me, that's all -- I believe that's the expression he left with me, that I would be taken care of, wouldn't be bothered too much, if I contributed to him.

Q. But you were raided weren't you? A. Yes, sir, a few times.

Q. Numerous times weren't you? A. Well, I can't recall how many times a month, but I know we were raided.

Q. What? A. We were raided, yes, sir.

Q. Why is it that you can't remember the numbers of times? A. Well, six or seven years, little incidents like that would be pretty hard to do that.

Q. Did you stop paying Cecil Boone then? A. When I left the hotel, yes.

Q. Where did you go then? A. I went to 317 West 3rd, that is an apartment house.

Q. Was that another liquor establishment? A. It was, yes.

Q. Who did you work for there? A. I bought that place there and moved down there, and taken over the little apartment there.

Q. And you went over into the liquor business yourself?
435] A. Yes, sir.

Q. Is that when you bought it? A. I think after a couple of months, now at first he was in with me on that.

Q. Who? A. Mr. Boone, when I first got that place, I was running the hotel and that was only another spot we had there and I was the owner of it, but Cecil was in with me for a couple or three months on a commission.

Q. Selling liquor? A. Yes, sir.

Q. He would supply you with the liquor and you would sell it, is that the arrangement that you had? A. I believe so, yes, sir.

Q. How long were you operating the place on West 3rd? A. Oh, it seemed like it was eight or nine months, I can't recall just how long.

Q. Do you know Charlie Hirrlinger of Turley? A. I do.

Q. Did you run a place for him at 7th and Boulder in Tulsa? A. No, I bought the place and I have the hotel there.

Q. That's called the Drake Hotel? A. It is.
436] Q. Is that approximately 617-1/2 South Boulder? A. It is 621-1/2.

Q. 621-1/2; did you operate in liquor down there? A. I did.

Q. Did you get raided there? A. On several occasions, yes.

Q. By the Police? A. By the Police and the County Officers.

Q. Yes, sir. And were you operating it when that place was padlocked by injunction of the District Court of Tulsa County? A. No, sir, I wasn't.

Q. You know about that though, don't you? A. I do know about it, yes.

Q. And that place is Charlie Hirrlinger's place? A. Yes, I reckon it is.

Q. That was a liquor joint, wasn't it? A. Well, when I went in, there was an injunction on it and I stayed -- I run it as a hotel for about four or five months before I ever started selling whisky.

Q. Well, what you did, when you went in, you made arrangements with Hirrlinger to get the injunction lifted to operate

it as a hotel? A. I would operate it as a hotel until the injunction was lifted; then I had permission to sell whisky, if it was lifted, otherwise not, no, sir.

Q. Permission from whom? A. My landlord; he had the
437] injunction on him.

Q. In other words, you got permission from Hirrlinger to sell liquor and you went on and sold liquor? A. After the injunction went to the Supreme Court, yes, but not before then.

Q. Well, the injunction was granted about a year and a half ago, the last one wasn't it?

Mr. Crawford: If the Court please, we object to this as not being proper cross-examination.

Mr. Hickman: Well, I'm trying to find out about this man, Your Honor; we can go into his liquor career.

The Court: I think probably he has answered the best he can but his recollection of orders entered in the District Court of Tulsa County would not be the best proof of what occurred.

Mr. Hickman: Well, I thought maybe he knew it.

Q. (By Mr. Hickman) About how long were you in that hotel?

The Court: If he knows it, I think its all right to answer.

Q. (By Mr. Hickman) How long did you operate that place? A. I still operate it; I leased the hotel the first of December a year ago; I have been there about fourteen -- about sixteen months now.

438] Q. Are you still operating it? A. Yes, sir.

Q. You are selling liquor there? A. Maybe.

Q. Maybe -- well, tell the jury whether you are or not, Mr. Uto. A. I am trying to.

Q. How much rent do you pay Hirrlinger? A. At the present time I am paying $250 a month.

Mr. Hickman: That's all.

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Redirect Examination by Mr. Crawford

Q. Mr. Uto, you mentioned a place on 3rd Street; would that commonly be referred to as a walk-in place? A. Well, it was an apartment house, there was about sixteen to eighteen units in the apartment house and I taken an apartment over there, just one apartment.

Q. Do you still have any connection with that establishment? A. No, sir.

Q. Who paid you the money for your interest in it when you sold it? A. Well, that -- I never sold the 317 West 3rd; they run an injunction on that, the County did; I just merely moved out; I had the whole apartment house at that time though.

Q. Well, may I ask you this question: You have operated
439] other places from which you have sold liquor, is that correct? A. Yes, sir.

Q. All right, have you ever at any time sold an interest in such a place to the defendant Cliff Wells?

Mr. Malloy: If Your Honor please, this is not proper redirect examination; there has been no mention whatsoever except the two spots as I understand it, this place down here that Hirrlinger is involved in, and the place at 317, whatever the address that Mr. Uto mentioned was, which he said he still owns; he is asking now about some other place entirely beyond the scope of the redirect examination.

Mr. Crawford: Well, if the Court please --

The Court: I wouldn't be inclined to sustain your objection upon that ground, but the materiality doesn't -- is the thing that concerns me; I can't see how it could be material that he may have sold an interest in a piece of property to Wells.

Mr. Crawford: Well, I will withdraw the question, Your Honor, and excuse this witness at this time.

Mr. Hickman: Just one moment; I want to ask him another question if the Court will indulge me just a second.

Cross-examination by Mr. Hickman

Q. Do you have a liquor dealers stamp now? A. Yes, sir,
440] I do.

Q For the premises of Hirrlinger, at 7th and Boulder? A. That's right.

Q. How many times have you been raided by the Police Department of Tulsa and been convicted in the Municipal Court, Mr. Uto? A. That's pretty hard to answer, sir; I don't know; the record should show it. I can't recall, but a few times in the last seven years.

Q. What? A. I would say a few times in the last six or seven years that I have been convicted.

Q. By "a few times" do you mean six or seven A. I would say that would be about right, sir; I don't believe it is that much, sir.

Q. All right, how many times have you been arrested by the County -- the Sheriff's Office? A. I have been arrested --

Q. And charged and convicted of liquor A. I have been arrested two times.

Q. Have you ever served time for liquor violations, Mr. Uto? A. No, sir.

Q. You mean you have just paid fines A. Well, now, are you going back twenty-five years; maybe I could answer, I don't quite understand how many years do you go back?

Q. Let me ask you this: Have you ever been convicted in 441] this Court of violation of the Federal -- A. I have, yes, sir.

Q. Have you been sentenced to the penitentiary A. I have.

Q. Leavenworth? A. Yes, sir.

Q. How much time have you done in that institution? A. I received a five year sentence here in '49, for the first arrest.

Q. All right, how about the second then? A. I don't believe that was for liquor; I believe that was for interstate shipment.

Q. How much time did you do on that? A. Three year sentence.

Q. Three year.

Mr. Hickman: That's all.

Mr. Crawford: You may be excused.

442] ED DeWEESE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Ed DeWeese.
Q. Have you ever been engaged with Cecil Boone in any type of business activity? A. Yes, sir.
Q. What type of activity have you been engaged with Cecil Boone in? A. Car business, and whisky business.
Q. When were you engaged in the whisky business with Cecil Boone? A. '50 and part of '51.
Q. Were you engaged in the car business with him at approximately the same time? A. Yes, sir.
Q. Now, Mr. DeWeese where was the location of this car business? A 25 South Lewis.
Q. And Mr. DeWeese, did bootleggers sometimes come to that location and leave money with you for Cecil Boone? A. Yes, on a few occasions.
Q. Do you recall specifically who any of those people were? A. Well, it is hard for me to name them by name
Q. Well, could I ask you this: Do you know a police
443] officer by the name of Cecil Ray? A. Yes.
Q. Did he ever visit the establishment there at the used car lot? A. Yes.
Q. Could he have left money with you for Cecil Boone?

Mr. Ungerman: That is objected to for the reason it is incompetent, irrelevant and immaterial; the witness has already testified he could not describe who left them.

The Court: Overruled; you may answer.

Mr. Shortridge: If the Court please, I make the further objection as to the form of question, could he have done something; if this witness knows he may state; it is not what possibly took place; it is what did take place or did not take place.

The Court: I believe I will sustain the objection upon that ground; I think the question should be put to him differently. We are interested not in theoretical possisilities, but in facts, as to what actually did take place, if he knows.

Q. (By Mr. Crawford) Well, as I understand your testimony,

Mr. DeWeese, there were individuals who did leave money with you at the --

Mr. Gotcher: If Your Honor please, we object to the
444] United States Attorney reiterating and recapitulating the testimony that has already been given; we object to his understanding. The jury will understand what the testimony is.

The Court: I believe I will sustain the objection.

Mr. Crawford: If the Court please, may I make an argument in that behalf: When I ask the witness that he says --

The Court: Wait just a minute -- no, I don't care to hear argument. I think the objection is a proper objection and the testimony of the witness should not be repeated in connection with asking subsequent questions; so I sustain the objection. Just ask him if Ray ever paid any money to him, ever delivered any money to him to be passed on to Cecil Boone.

Q. (By Mr. Crawford) Did Ray ever deliver any money to you for Cecil Boone? A. I can't remember of him delivering any.
Q. Could he have ever delivered any?

Mr. Ungerman: Objected to as incompetent, irrelevant and immaterial.

The Court: I sustain the objection.

Q. (By Mr. Crawford) He did visit you at the used car lot, is that correct? A. Yes, he did.
Q. Now, Mr. DeWeese, did you ever pay any money to Red Carter? A. Yes, sir.
Q. And when did you first commence paying money to Red
445] Carter?

Mr. Hickman: We object to that on the ground that it is incompetent, irrelevant and immaterial, and not within any issues in this case, in no way connected with the defendants in this case, or even the co-conspirators. He might as well say that they paid money to the campaign of President Eisenhower because it hasn't anything to do with what is charged.

The Court: Will there be evidence subsequently tending to connect --

Mr. Crawford: There will be subsequently, Your Honor, and in my opinion prior to this time.

The Court: There has been a little. I doubt the sufficiency of the evidence prior to this time. Will there be any additional evidence?

Mr. Crawford: Yes, sir, there will be additional evidence.

The Court: Objection is overruled.

Q. (By Mr. Crawford) When did you commence paying money to Red Carter? A. I would say about the first of '51.

Q. And how much money per month did you pay him, Mr. DeWeese? A. I would say two months, $100, approximately three months, $200, and that was the end.

Q. Was that money always paid in cash? A. Cash.

446] Q. And where was the money paid -- at what location?

A. Well, part of it was at the car lot; others could have been at different locations.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Do you know what these persons that you say brought money to your place of business to pay money to Cecil Boone paid it for; was it for payment for delivery of whisky? A. Part of them was, I am sure.

Q. In other words, Cecil Boone supplied a lot of these people with liquor? A. That's right.

Q. Now, is it your testimony, Mr. DeWeese, that in the year 1951 you paid Red Carter $100 a month for two months? A. Yes, sir.

Q. And $200 a month for three months? A. Approximately three months; I'm not sure whether it was two or three or more, but apprcximately three times.

Q. Well, now, was that system of payment abandoned in 1951, was it ended? A. Yes.

Q. And no more was paid? A. No.

447] Q. What would you do with the money that you received in this fashion, Mr. DeWeese; would you hand it over to Cecil Boone? A. No, I gave it -- you mean the money I taken?

Q. The money that you took in or the money that was delivered to you? A. Yes, I handed it to Cecil Boone.

Q. Did you give some to Red Carter? A. Not that money.

Q. Well, what money did you say you gave Red Carter? A. My money.

Q. Your money? A. Yes, sir.

Q. Red Carter, was he a bondsman? A. Yes, sir.

Q. Well, did you owe him money for making bonds? A. Not that money.

Q. Well, do you know what he was doing with that money? A. Only his word.

Q. For all you knew he could have been putting it in his pocket? A. Right.

Mr. Hickman: That's all.

448] Redirect Examination by Mr. Crawford

Q. It wasn't though your understanding that he was going to put it in his pocket?

Mr. Hickman: Just a minute, we object to what was his understanding.

The Court: Sustained -- objection sustained.

Mr. Crawford: All right, that's all.

Cross-examination by Mr. Malloy

Q. Just one or two questions. Could you be a little bit more explicit as to the months you say in 1951, now that is twelve months. A. Yes, it ended in --

Q. When did it begin, let's go to the beginning. A. Well, it is a little hard to remember. I know it ended in September.

Q. Of '51? A. In '51, I know when it ended; it is a little hard to tell exactly when I started.

Q. It was only a couple of months? A. No, about five months I would say all together.

Q. In '51, you are sure of that? A. Yes, and ended in

September.

Mr. Malloy: That's all.

Mr. Crawford: Just one moment, please.

449] Redirect Examination by Mr. Crawford

Q. When the money was being left with you for Cecil Boone you were not paying your money to Red Carter at that time, is that correct? A. No.

Q. And during the time that you were paying Red Carter money you were engaged in the liquor business, is that correct? A. That's right.

Mr. Crawford: That's all.

BILL CURLEE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Bill Curlee.

Q. Mr. Curlee, you have been engaged in the liquor business here in and about the City of Tulsa for a number -- for a period of several years, have you not? A. That's correct.

Q. Mr. Curlee, do you know Red Carter? A. Yes, I do.

450] Q. Have you ever made any monthly payments to Red Carter?

A. No, I have never made any payments to Red Carter.

Q. Have you ever made any monthly payments to Cecil Boone? A. Yes.

Q. When were those payments made? A. I don't just recall; it has been several years back.

Q. Could they have been made around 1950 or '51? A. Somewhere along in that --

Q. And how much were these payments per month? A. Well, that's something I couldn't remember just exactly what they were myself; it was either $100 or $150 a month.

Q. Do you recall, Mr. Curlee, how many months you made such payments to Cecil Boone. A. It wasn't very long, two or three months in all.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Are you in the liquor business, Mr. Curlee? A. That's correct.

Q. How long have you been in the liquor business? A. Oh, I have been in the liquor business for about nine years -- eight or nine years.

Q. Have you been convicted of crime? A. Well, I don't believe I have a record of conviction against me in Oklahoma. I was caught once in Missouri.

Q. Well, you also plead guilty to burglary in Los Angeles
451] didn't you? A. In what?

Q. Los Angeles County, California, on the 3rd of March, -- March 19, 1942? A. Well, I got -- when I was a kid I got in a little trouble out there; I don't recall just when it was but that has been several years back.

Q. How long have you been in the liquor business here? A. Eight or nine years.

Q. Have you had any convictions for liquor here?

Mr. Crawford: If the Court please, we object; that is repetitious; he asked --

Mr. Hickman: I don't remember what his answer was.

The Court: He said he didn't recall having been convicted of liquor violations.

Q. (By Mr. Hickman) All right, were you also operating this Drake Hotel, of Charlie Hirrlinger's down here at 7th and Boulder? A. Yes, I was.

Q. Were you carrying on a liquor business there? A. Yes, I was.

Q. Did you have a liquor dealers stamp? A. My partner had a stamp.

Q. Who was he? A. Doc Hunt.
452] Q. Doc Hines? A. Hunt.

Q. Hunter? A. Hunt, H-u-n-t.

Q. Were you operating that under some arrangement with Hirrlinger? A. No, no arrangement whatsoever.

Q. He owned the premises, didn't he? A. I just leased it.

Q. You rented from him; are you renting from him now? A. I am sure not.

Q. When did you cease? A. Well, I ceased when they moved my furniture out.

Q. You mean when they got an injunction against the place? A. No, I moved out when they moved my furniture and all my fixtures out, that's when I quit.

Q. And when was that? A. Well, it has been about two years ago.

Q. How long did you have it under lease from Hirrlinger?

Mr. Crawford: If the Court please, --

A. I don't just remember.

Mr. Crawford: We object to this line of questioning; it
453] seems to me to be improper.

The Court: Overruled.

Q. When did you give money to anybody -- to Cecil Boone? A. I just told the District Attorney when that was, in '48.

Q. What year? A. '48 or '49 or '50.

Q. '49 or '50? A. That's correct.

Q. Over how many months did you do that? A. Two or three months.

Q. Then you stopped? A. That's right.

Q. Never paid any money any more? A. I didn't say I didn't pay any money any more.

Q. Well, when did you, if you did?

Mr. Crawford: I intend to bring this witness back, Your Honor, at another time for these payments; that Mr. Hickman is questioning him about now.

The Court: Are you willing to wait for that information?

Mr. Hickman: I don't care, one way or the other.

Mr. Crawford: That's all.

454] ARCHIE MOORE, called as a witness on behalf of the Government testified:

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Direct Examination by Mr. Crawford

Q. State your name, please. A. Archie Moore.
Q. Mr. Moore, what is your business at the present time? A. I am associated in the restaurant business.
Q. You are not engaged in the liquor business now in any manner whatsoever are you? A. No, sir.
Q. But you have been in previous years, is that correct? A. Yes, sir.
Q. Mr. Moore, do you know Red Carter? A. Yes, sir.
Q. Have you ever made any payments to Red Carter? A. Yes, sir.
Q. And in what year or years were those payments made? A. '50 and '51, I believe, sir.
Q. Do you recall whether those payments were weekly, monthly, or what? A. They were monthly.
Q. And how much did you pay Red Carter per month? A. It started out $150, and then sometime later it was $200.

455] Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Did you have a place of business for selling the liquor, Mr. Moore? A. Beg pardon?
Q. Did you have some establishment, some location to carry on the liquor business? A. Yes, sir.
Q. Where was it? A. Oh, that was between 1st and 2nd on Cincinnati, -- St. Elmo Hotel.
Q. Did you have a retail liquor dealers stamp? A. Yes, sir.
Q. All the time you operated as a liquor dealer? A. Yes, sir.
Q. Now you say you paid money to Red Carter in '50 or '51? A. '50 and '51, sir.
Q. Over how long a period of time? A. About a period of a year.
Q. How did you pay him, by delivering it to him or did he come to your place of business? A. Usually he would call and I would meet him someplace, some designated place.
Q. Oh, you would do it in secret you mean, some place
456] in secret, hand him the money? A. Yes, sir.
Q. Where would you usually go, in a car someplace? A. In a car.

Q. Would you get a receipt for it? A. No, sir.
Q. Were you arrested for violating these liquor laws? A. Have I been -- yes, sir.
Q. Yes, how many times, Mr. Moore? A. I don't know, sir.
Q. Do you mean they are so many that you can't estimate it? A. There isn't so many, sir; I didn't have any convictions with the County; I was convicted in the City, and paid fines.
Q. You have been raided many times by the City Police, haven't you? A. Over a period of years, yes, sir.
Q. About how many times have you been successfully raided by the Police, and where they found something? A. I don't know, sir.
Q. Do you mean it is so numerous? A. Yes, sir.

Mr. Hickman: That's all.

457] Redirect Examination by Mr. Crawford

Q. During the time that you were making these payments to Red Carter were you raided by the City Police? A. No, sir.

Mr. Crawford: That's all. Thank you.

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RALPH R. LASHBROOK, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Ralph R. Lashbrook.
Q. What is your business? A. I am supervisor, Alcohol and Tobacco Tax, at Kansas City.
Q. How long have you been associated with the Alcohol and Tobacco Tax Unit? A. About twenty-nine years.
Q. Do you know the defendant Don Gray? A. I do, sir.
Q. Do you see him in the courtroom today?

Mr. Hickman: You can eliminate these around this table
458] here.

(Thereupon Mr. Lashbrook left the witness stand, and went

through the section of the courtroom occupied by defendants and defendants counsel.)

Q. (By Mr. Crawford) Mr. Lashbrook, defendants are also seated on these benches; it may be what is confusing you over here.

Well, I recognize there are a great many defendants and lawyers. Let me assist you.

Mr. Ungerman: We object to the United States Attorney --

Mr. Crawford: All right, we will let him look then if that is what they want.

If the Court please, is there any objection to me assisting the man legally?

The Court: I think it would be more effective if he does it unaided.

A. I saw him over here a while ago.

The Court: Do you give up, Mr. Lashbrook?

A. I saw him here a while ago, Judge.

The Court: Come back and take the witness chair.

Q. (By Mr. Crawford) You were unable to find Mr. Gray, is that right? A. I saw him in the hall here this morning.

Q. Did you recognize him at that time? A. Yes, sir.

459] Q. Did he have glasses on at that time? A. Yes, sir.

Q. You didn't see anybody wearing glasses here now that looks like Don Gray?

Well, let me ask you this, is this gentleman sitting here on the front bench without glasses, a possibility of being Don Gray?

Mr. Ungerman: We object to that, if Your Honor please, counsel is deliberately pointing out a witness.

The Court: It's all right; the objection is overruled.

Q. (By Mr. Crawford) You take a good look at this man

over here that is not wearing glasses; let me know if you have ever seen him before, sitting on this first bench by himself in the gray suit.

A. Right here?

Q. Yes, sir. A. Yes, sir, that is Don Gray.

Q. Now have you ever had a conversation with that man? A. Yes, sir.

Q. And do you know of any liquor establishments that he operates in Missouri? A. He operates the Greenwood liquor store, tobacco store on Highway 66, southwest of Joplin; that is, he operated that back in 1949.

Q. Do you know of any other liquor stores he operated
460] in and around Joplin? A. Yes, sir.

Q. What were the names of those? A. Horseshoe Store No. 2, adjacent to the Kansas State line on Highway 57. He operated another store about a half a mile south and some east from that store, known to us a the Airport Liquor Store.

Q. Now have you ever observed any loading operations of merchandise into automobiles in and around those stores you have mentioned? A. Yes, sir.

Q. Have you ever made any seizures from automobiles departing from those stores? A. Yes, sir.

Q. Did you ever make one by a man -- make a seizure of a car driven by a man by the name of Harry McCarthy? A. Yes, sir.

Q. Would you explain to the jury the facts and circumstances relating to that seizure?

Mr. Hickman: May we ask that the time be fixed, Your Honor, that we may follow this.

Mr. Crawford: I will be happy to do that.

Q. (By Mr. Crawford) When was that seizure made, Mr. Lashbrook? A. That was November 22nd, 1949.

Q. Would you explain the facts and circumstances relat-
461] ing to that seizure.

Mr. Malloy: At this time we want to renew our objection as to the testimony of this witness with respect to any of the defendants other than Don Gray; we renew our objection; and furthermore with respect to any conversation with someone by the name of McCarthy, who is neither a defendant nor a co-conspirator; the materiality.

The Court: The question doesn't call for any conversation that either this witness or anybody else may have had with McCarthy, but the jury will have in mind the statement made by the Court to you yesterday that the evidence is to be considered by you only with reference to the defendant or defendants on trial to whom the evidence primarily relates. Until such time as the evidence is adequate to show that other defendants, one or more of them, may have been a party to the alleged conspiracy. In other words, once a conspiracy entered into by a number of people is established by the evidence, then any party to the conspiracy becomes an agent of all, and any act done by the party or statement made by the party to the conspiracy in furtherance of it binds all those who are members of the conspiracy. But statements or acts of one of the parties charged may not be considered as establishing the existence of the conspiracy.

462] Mr. Ungerman: If Your Honor please, we would like to interpose another objection: That the particular act that Mr. Lashbrook is interrogated about involves attempted importation into the State of Oklahoma, and that particular case it resulted in Your Honor holding the act inapplicable to importation in Oklahoma, in which you were affirmed by the 10th Circuit Court of Appeals; it is therefore incompetent, irrelevant and immaterial in this particular case.

The Court: I didn't get your point.

Mr. Ungerman: They are asking Mr. Lashbrook about a search and seizure made in a particular time involving Walter McCarthy; that particular case was tried before Your Honor in which Your Honor held that the liquor enforcement act of '46 was inapplicable to the State of Oklahoma -- held the act unconstitutional. You were affirmed by the 10th Circuit Court of Appeals. Therefore any questions relating to that transaction are incompetent, irrelevant and immaterial; there is no force and effect.

The Court: Is that the hearing --

Mr. Ungerman: Yes, sir, that's the particular case, the one he is talking about.

The Court: What was the period of time?

Mr. Ungerman: All right, here it is.

The Court: Wait a minute, until I ask the question; what was the period of time during which it was not unlawful -- not a violation of Federal law to transport liquor into Oklahoma?

463] Mr. Ungerman: 1949 to '50, up until the 5th day of April 1951.

The Court: 1949 -- was it 1949 that Act was passed by the Oklahoma Legislature?

Mr. Ungerman: Leaving out the --

The Court: Then it was amended?

Mr. Ungerman: Amended and put into effect on the 5th day of April, 1951, with an emergency clause as of that date.

The Court: I don't believe this evidence would be material.

Mr. Crawford: If the Court please, --

The Court: Unless it would relate to the Count 2; I believe it is, that deals with the alleged conspiracy to engage in the whisky business without paying a special tax required by law.

Mr. Ungerman: In order to make that point they would have to show at the particular time McCarthy was not the holder of a stamp.

The Court: There may be several things that would have to be done.

Mr. Crawford: Yes, sir, -- well, it would be -- I would like to offer the evidence through the witness, or state to the Court my suggested proof.

464] I am endeavoring at this time to start a long list of witnesses showing the importation of liquor into Oklahoma from Don Gray's establishment.

The Court: It wasn't unlawfully imported into Oklahoma

in 1949 to '51?

Mr. Crawford: Well, what is the date in 1949, the decision of the Court?

The Court: It is not the decision of the Court; the Court decided the effect of it; actually it was a period, 1949 -- I am not familiar with the date, but when the Legislature passed this -- actually changed the law, which made it -- which in effect devitalized the Federal Statute, and for a period of two years it wasn't a violation of Federal law to transport whicky into Oklahoma. And then in '51 the Legislature amended the Act again.

Mr. Crawford: I understand that, Your Honor, but I have to show that the man was in the liquor business and that he did sell to people.

Mr. Ungerman: It wasn't against the law for me or you or anybody else to sell it.

The Court: You have shown he was in the liquor business, but evidence pertaining to an agreement to import, from 1949 to '51 would be inadmissible because it wasn't a violation of Federal law.

Mr. Ungerman: Mr. Crawford wasn't in office at that time.
465] This particular liquor was returned to McCarthy at the back door of this Post Office Building.

Mr. Crawford: I understand that; I have talked to McCarthy; he is waiting out there to testify.

The Court: I am going to sustain the objection on the ground that during that two-year period from 1949 to 1951 --

Mr. Crawford: Do we have a date in 1949?

Mr. Ungerman: I can give you the 1949 session laws.

* * * * *

The Court: I am going to sustain the objection interposed to the question propounded to this witness with reference to the

occasion upon which McCarthy was apprehended bringing whisky into Oklahoma from the State of Missouri, and the reason for it is this: The Federal Law which forbids the importation of whisky from wet states into a dry state has application only in the event the so-called dry state by its laws forbids the importation of liquor into the state. Prior to 1949 we did have a law in effect in the State of Oklahoma which forbade the importation of all intoxicating liquor into this State and consequently the Federal Act making it a violation of Federal law
466] to transport from a wet state into a dry state was effective with reference to importations into Oklahoma. But in 1949 the Oklahoma Law was amended by the Legislature, perhaps inadvertently but nevertheless amended so that after May 3, 1949, it wasn't a violation of Federal Law to import whisky into Oklahoma. That situation continued until the Legislature met again and passed another amendment; that was done in 1951, and it became effective on April 5, 1951, and at all times since April 5, 1951, it has been a violation of Federal Law to import liquor into Oklahoma. We have a hiatus there, a period of approximately two years, from May 13, 1949 to April 5, 1951, during which it was not a violation of Federal Law to bring liquor into Oklahoma, and it was during that two-year period as I understand it that the McCarthy incident occurred and it would therefore not be admissible because it would not be material to any issues in this case.

Q. (By Mr. Crawford) Now, Mr. Lashbrook, subsequent to April 5, 1951, have you had occasion to observe any of the liquor stores operated by Don Gray? A. I have.

Q. Did you make an observation in 1955? A. Yes, sir.

Q. Would you tell the jury about that observation?

Mr. Ungerman: Objected to unless they fix a particular
467] time when he made this particular observation.

The Court: Overruled.

A. On April 2nd, 1955, I was working in conjunction with other investigators watching Don Gray's Airport Store. It was in the evening. And we saw Don Gray and two employees carry out empty cartons and burn them behind the building.

Q. (By Mr. Crawford) What type of cartons were these, Mr. Lashbrook? A. Appeared to be whisky cartons.

Q. All right.

Mr. Shortridge: Object to what they appeared to be. If the witness knows he may state; if he doesn't know he should so state.

The Court: Overruled.

Q. (By Mr. Crawford) You may continue. A. Later during the evening cases of liquor were carried by two employees of Don Gray's to a back room in the building. A Hudson sedan owned by Don Gray appeared there from the north. Some hour and a half later it was driven back toward the north and toward the Horse-show Store No. 2.

Q. Did you have any occasion to observe that Hudson automobile later? A. Yes, sir.

Q. And where was that? A. We continued to watch both establishments during the night and at about 6:15 A.M. the following morning we had a radio message from Investigator
468] Gibson. As a result of that we drove north arriving at Menden Mines, Missouri, where we received another radio message from Investigator Starrett. We then observed Don Gray's Hudson sedan traveling south on a country road about two miles east of Mindenmines. We pursued to some mile and three quarters south of Highway 166, caused the car to stop. Don Gray was driving and a man by the name of Walter Adams was riding with him. I asked Don Gray if he had made a transfer of liquor. He said that he had not; he said that he had hauled liquor in this car, said he had hauled as high as seventy-five cases in it at one time. The back seat at the time was out of the Hudson and there was one empty carton of gin; half-pint carton of gin in the back of the car. I asked him if Walter Adams was employed by him, and he said he was and that he paid him fifty-five dollars a week. He volunteered that the last time the Government had caught him in Kansas, charged him with a liquor violation, at that time he had been playing pool.

Q. Now, Mr. Lashbrook, was there any question in your mind at that time that the man you were talking to was Don Gray? A. No, sir.

Q. Did he identify himself? A. He said he was Don Gray, said that his legal address was Opolis, Kansas, Route 1, I believe Jasper County, Missouri.

Q. Is there a liquor store near Opolis, Kansas? A. Yes, sir.

Q. What is the name of it? A. That is the Horseshoe Store No.2.

Q. That was operated by Don Gray, is that correct? A. Yes, sir.

Q. How long prior to today, Mr. Lashbrook, had it been since you had seen Don Gray? A. Since that time?

Q. That was the last time you had seen him? A. Yes, sir; at that time he was dressed in rough clothes and was wearing a cap.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Shortridge

Q. Mr. Lashbrook, I believe you said that occasion was on April 26, 1955, when you saw Mr. Gray driving along in an automobile, a Hudson automobile? A. No, sir, that was April 23, 1955.

Q. April 23? A. I saw him the night before on April 22nd.

Q. And when you stopped him there was no whisky, gin, wine, or beer in the car was there? A. No, sir.

Q. Now you are an expert witness -- A. I wouldn't say 470] that.

Mr. Crawford: If the Court please, that would call for a conclusion; we object to that.

The Court: Well, I don't believe the witness would be insulted by suggesting that he was.

Q. (By Mr. Shortridge) You have taken courses in how to present court testimony, haven't you, in your study? A. I have testified a lot, yes, sir.

Q. Just talk over here toward the jury; they are the ones that want to hear you. You have been a prohibition agent or revenue agent or alcohol tax person or whatever you call it for how many years? A. Twenty-nine, approximately.

Q. Twenty-nine years; you have had instruction as to how to conduct yourself in the courtroom? A. Yes, sir.

Q. And how to testify? A. Yes, sir.

Q. How to observe? A. Yes, sir.
Q. Then you would say that you are an expert witness? A. Well, I wouldn't say that.
Q. At least you have tried to become one. A. Just tried to tell the facts.
Q. All right now, on April 23, 1955, you didn't arrest
471] Don Gray, did you? A. No, sir.
Q. You didn't see any liquor? A. No, sir.
Q. You don't have any idea that any liquor went to Oklahoma that day, do you, or any other state? A. Well --
Q. Of your own personal knowledge? A. A couple of miles north of there, sir, we --

The Court: Wait just a minute; do you want to change your question.

Mr. Shortridge: Yes, sir.

Q. (By Mr. Shortridge) Of your own personal knowledge.

The Court: Well, do you want to ask him about any ideas or do you want to ask him what he knew?

Mr. Shortridge: Now, sir, any personal knowledge he had of any liquor going to Oklahoma on April 23, 1955.

A. Yes, sir.
Q. (By Mr. Shortridge) Did any liquor go to Oklahoma that day? A. Well, it didn't arrive at its destination.
Q. That's all, -- do you know that Mr. Gray is a wholesale liquor dealer? A. I think he has a stamp, yes, sir.
Q. Have you ever been in his place of business? A. Yes,
472] sir.
Q. Have you ever talked to him? A. That one occasion.
Q. Which is 1955? A. Yes, sir.
Q. Do you know whether he has a retail liquor dealer stamp? A. He does.
Q. And do you know whether or not he pays Jasper County, Missouri, and the State of Missouri, for the privilege of engaging in the liquor business? A. I wouldn't know; I assume he does.
Q. His business has been right on the highway there where he advertises liquor, previously, isn't that true? A. Yes, sir.

Q. Nothing secretive about the location of his stores? A. No.

Q. Right on the open highway.

Mr. Shortridge: That's all.

Redirect Examination by Mr. Crawford

Q. Well, there is something secretive about the way he transfers his liquors, is there not, Mr. Lashbrook? A. Yes, sir.

473] Mr. Shortridge: Object to that; that is assuming something not in evidence yet, Your Honor.

The Court: I will sustain that.

Mr. Crawford: That's all.

EDWIN S. BURNS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please, sir. A. Edwin S. Burns.

Q. What is your business or occupation? A. Investigator, Alcohol and Tobacco Tax Division.

Q. How long have you been employed by the Alcohol and Tobacco Tax Division? A. Since its existence, and in related departments, twenty-nine years.

Q. Have you been stationed up in and about Joplin, Missouri? A. I have.

Q. Do you know the defendant Don Gray? A. I did know him, yes, quite a while.

Q. Do you recognize him in the courtroom today? A. I haven't looked for him.

Q. Well, would you take a look, please. A. Well, if he
474] looks like he did four years ago at the last time I saw him, he is about two hundred thirty-five pounds, six feet, and will weigh approximately -- no, I stated that, two hundred thirty-five, dark horn-rimmed glasses, and a mixed dark gray mustache. I haven't seen him for four years.

Q. But you do know the man, Don Gray? A. I have talked with him many times, yes, sir.

Q. All right, now, Mr. Burns, excluding the dates from April 13, 1949, until -- I mean from May 13, 1949, until April 5, 1951, have you observed liquor stores owned by Don Gray? A. Yes.

Q. Have you observed cars being loaded at those stores? A. I have observed cars going into the premises and coming out loaded -- not in all instances did I see them loaded.

Q. All right. Did any of those cars bear Oklahoma license tags? A. They did.

Q. Now when was the earliest such observation that you made, Mr. Burns, excluding those dates from May 13, '49 to April 5, 1951. A. At the present moment, the earliest one that I can name by exact date is November 22, 1949.

Q. That would be within those dates; when was the next date? A. There were quite a number of them which I do not have any diary or memorandum with me. The next definite
475] one, positive and certain, would be January 7, 1953.

Q. Would you tell the jury, if you happened to overhear a conversation of Mr. Gray's on that date? A. I did.

Q. Where did the conversation take place? A. In the lobby of the hotel at Anderson, Missouri, about 12:30 noon.

Q. And was Mr. Gray talking with someone or over the telephone? A. He was talking over pay phone, Anderson number 27.

Q. And what did you hear him say?

Mr. Hickman: We would like the Court to admonish the jury that this can only be considered against Mr. Gray and not the other defendants.

The Court: Well, that is true, but I think I have previously advised the jury to that effect.

Q. (By Mr. Crawford) You may relate the conversation you overheard. A. The first little bit of the conversation was not intelligible to me. The last part of it Mr. Gray said, "We will be ready by 7 o'clock sure."

Q. All right, did you observe any activity at or about his liquor store about 7 o'clock? A. About 6:30 Mr. Gray left the store in his maroon Hudson sedan, drove north on US
476] 71 highway out of sight and was gone until just about

7 o'clock, he returned in the car.

Q. All right, what happened next that you saw? A. A very few minutes after he returned I saw Carl David Harp and a clerk working for Mr. Gray that I do not know his name, they were putting lugs and packages in Mr. Gray's Ford pick-up truck from the -- that was parked at the back door of the store, and the lights were on, I could see quite well what was occurring.

Q. All right, did that truck leave the location soon? A. It did.

Q. Where did it go to, if you know? A. It went north on US 71 highway to just past Goodman, Missouri, turned west on McDonald County Highway B, which is a gravel road, and west to a little grocery store intersection known as May and south and west from there into a general rural and woods area where the roads are diagonal, and it is rather an uninhabited area.

Q. All right, did the car -- did the truck stop at that time? A. I passed the Gray truck once going from Goodman to May, and again between May and the woods area. It had stopped after it left May before it got to the woods area.

Q. Now, taking you back to the telephone conversation
477] that you overheard there in the hotel, do you know what number Mr. Gray was talking to? A. That first call, no, I do not know.

Q. Did you hear a second call? A. I did.

Q. What number was that, if you recall? A. Tulsa 72-4241.

Q. And have you ever called that number here in Tulsa? A. I have.

Q. And who have you talked to at that number? A. Heavy Barber. His correct name listed in the phone book is Morris G. Barber.

Q. Taking you back to this truck, did you have any other occasion to observe the truck on that occasion? A. Well, when the truck stopped after leaving May, I saw the occupants of the truck, the driver of the truck was Mr. Gray's clerk, whom I do not know by name; the other occupant of the truck was Carl David Harp. And after the truck went into the secluded woods area, where we did not follow, we went on south of that woods area towards Oklahoma and waited at a point of a "V" country road, gravel road, and US, or State Highway 43 intersection for the truck to come out of the woods.

Q. Did the truck come out of the woods? A. The truck did come out of the woods.

Q. Was it the same truck that went in? A. It wasn't.

478] Q. All right. And did you follow that truck? A. A short ways.

Q. Did you overtake the truck? A. I did.

Q. Did you stop it? A. I did.

Q. Who was driving the truck? A. Carl David Harp.

Q. And did you have a conversation with him at that time? A. I did.

Q. All right, how much liquor, if any, did you find in the truck? A. Eighty-three cases.

Q. Was there any one else in the truck with Harp? A. There wasn't.

Q. Had any other automobile or vehicle entered the secluded area where you followed the first truck, from the time you had the observation of it there? A. Not to my knowledge.

Q. Do you know of any other roads that were leading into that area other than the one you were watching? A. I was watching the roads leading out of the area; I couldn't say what was going on into the area.

Q. All right, did you have an occasion then to check to see if Carl David Harp had any means of identification on his person? A. I did.

479] Q. Did you find a driver's license or a chauffeurs license?

A. I did.

Q. Issued by the State -- by what State? A. Oklahoma.

Q. Did you find anything else in or about the car that would indicate -- or the truck that would indicate that it came from Tulsa, Oklahoma? A. Yes, in the glove compartment was a quantity of, I believe it was matches, Bill's Texaco Service Station here in Tulsa, and some type of a copy of an application for Oklahoma commercial vehicle license in the name of E.C. Moore, Dover, Oklahoma.

Q. Now, Mr. Burns, have you made any other observations since that time of Don Gray's liquor stores? A. January -- February '53, I presume that I did, but I do not have any specific incident in mind, at Joplin.

Q. Did you make any other observation at any of his other liquor stores? A. Yes.

Q. And which ones were those, please? A. He had a store on the Missouri State Highway 57, right close to the Kansas line, near the village of Opolis, which is in Kansas; however, the store was in Missouri.

480] Q. Uh huh. Was there -- and did you see cars loading and unloading at that location? A. I did.

Q. Did any of them bear Oklahoma licenses? A. I couldn't say at this time, sir, whether they did or not; some did and some didn't, I imagine.

Q. Now, Mr. Burns, have you ever made -- have you ever had a conversation with Don Gray with regard to the volume of business that he has been doing? A. I have.

Q. And did he tell you how much business he was doing? A. Yes, he told me and he also showed me some of his books, some of his records.

Q. And when was this conversation when he showed you the books and records? A. Approximately November 1951, at which time I was making a general audit of his business in regard to the October 31, 1951 floor tax payment, when the taxes increased.

Q. What did you determine that his volume of business was in the liquor business?

Mr. Shortridge: If the Court please, we object to that as immaterial.

Mr. Hickman: Not the best evidence.

Mr. Shortridge: These records would be the best evidence
481] if he had them.

Mr. Crawford: If the Court please, he checked the records in the presence of the man, and the man himself verified them.

The Court: I don't believe it would have any probative value because unless you can elicit information as to the period covered, the information obtained in November 1951 might very well cover a part of the term during which it wasn't unlawful to bring whisky into Oklahoma -- that is, not against Federal Law. So unless the information could be broken down to indicate more specifically the period of coverage I don't think it would be admissible.

Mr. Crawford: May I inquire and endeavor to break it down?

Q. (By Mr. Crawford) Mr. Burns, how long a period of time did those records that you examined there cover? A. We only discussed the year 1950.

Q. The year 1950, that was all? A. Yes, sir.

The Court: That would not be admissible.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Shortridge

Q. Mr. Burns, during the time you have related, that is, including January of 1953, you were the chief alcohol tax agent.

A. I was one of the tax agents; I was only chief in the
482] fact that I was responsible for submitting certain group reports, and routine work.

Q. You were in charge of the office were you not? A. I was what they called agent in charge.

Q. I see. A. I wasn't in charge of the field work exactly, no.

Q. But you were the agent in charge of the office? A. I believe that was the small title I held, yes, sir, similar words, any how.

Q. Tell the jury whether or not you arrested Mr. Gray with regard to this Harp transaction that you have testified. A. No, I did not arrest Mr. Gray.

Q. And in fact you testified before the Missouri Liquor Commissioner in 1953 that you never saw these two trucks closer than six or seven miles apart, didn't you? A. I testified before the Missouri State Liquor Commission in regard to revocation of his permit, sale for resale, in regard to these trucks. I do not recall the six or seven mile distance. Perhaps half that distance would be correct however.

Q. And you testified that you didn't know that the liquor from one truck went to the truck that Carl Harp was driving, didn't you? A. Yes, that would be true.

Q. And you didn't know it, and you don't know it today?
483] A. I don't know it today.

Q. Now, Mr. Crawford asked you a question that was all sweeping, he said, did you see cars loading that had Oklahoma licenses; I want to know of any specific instance other than the January 7, 1953 -- A. May I ask where and when you are speaking of?

Q. Of any store that you say that Mr. Gray operated. A. You have used the word "loading" and at his --

Q. Well, that was Mr. Crawford's word. A. Well, I believe I qualified that to, at the Greenwood Tobacco Store, which was the first store Mr. Gray had, the loading room was totally enclosed and nobody saw a vehicle loading at that place.

Q. Then your answer to Mr. Crawford's question was in error then, wasn't it? A. I believe I answered about the same

to him.

Q. And you never did arrest Don Gray in Oklahoma -- for shipping any liquor to Oklahoma, did you? A. No, I did not.

Q. Or aiding and abetting anybody else to do it? A. No, I never did arrest Mr. Gray.

Q. Then, even though you were in charge of the office in Joplin? A. I was nominally in charge, yes, sir.

Mr. Shortridge: That's all.

Redirect Examination by Mr. Crawford

Q. You endeavored to make cases against Mr. Gray, did you not, Mr. Burns?

Mr. Shortridge: Just a moment; that is improper, Your Honor, what he endeavored to do; or might have thought.

The Court: Sustained.

Mr. Shortridge: If he has done something --

The Court: I sustained the objection.

Mr. Crawford: That's all.

RALPH S. CHANCE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name please. A. Ralph S. Chance.

Q. Mr. Chance, you are a special investigator of the Alcohol and Tobacco Tax, are you not? A. Yes, sir.

Q. How long have you been so employed? A. I have been with the Alcohol and Tobacco Tax about six years.

Q. All right now, directing your attention to on or about January 7, 1953, did you have occasion to be in Anderson, Missouri? A. Yes, sir.

Q. Did you have an opportunity when you were in Anderson,
485] Missouri, on that date to overhear, and, or see a phone call made by Don Gray? A. Yes, sir, I did.

Q. And do you know what number he was calling? A. Yes, sir, it was a Tulsa number -- Tulsa, Oklahoma; I don't have the number right here.

Q. Well, did you make a notation of that number? A. Yes, sir, I did.

Q. Did you call it at a later time? A. I didn't, no, sir.

Q. Do you have the number there? A. Yes, the number is 70416, was one of the numbers, and he called another number, 72-4241.

Q. They are both Tulsa numbers? A. Yes, sir.

Q. All right, did you overhear any of his conversation? A. Yes, sir.

Q. And what did he say? A. I heard part of the conversation in which he said, "I will be ready at 7, for sure."

Q. And did you accompany agent Burns, later that evening? A. Yes, sir.

Q. All right. And you were with him when Carl Harp was 486| stopped, is that right? A. Yes, sir.

Q. Now on March 2nd, 1954, did you have occasion to investigate or observe the Horseshoe Liquor Store located north of Asbury, Missouri? A. Yes, sir.

Q. And at Opolis? A. Yes, sir, I did.

Q. Will you tell the Court and tell the jury the facts and circumstances relating to that observation. A. Yes, sir.

Mr. Shortridge: Just one moment, -- Your Honor, may I approach the Bench?

(Thereupon counsel and the Court conferred at the Bench, and the following record was made at the Bench and out of the hearing of the jury:)

Mr. Shortridge: I believe that the United States Attorney intends to inquire about an offense for which Mr. Don Gray has been tried and acquitted by the United States District Court for the District of Kansas, that is, an attempted conspiracy to transport liquor into the State of Oklahoma, and it would be unfair to again try him in this case for something for which he has already been acquitted.

The Court: What do you say about that?

Mr. Crawford: Well, that is -- that is the transaction

487] I had in mind.

The Court: I don't believe it would be competent if he has been tried.

Mr. Shortridge: And acquitted.

Mr. Crawford: Well, I won't pursue that very far, the attempted importation. Of course he is not charged with that in this case.

The Court: With respect to something with which he has already been charged and tried?

Mr. Crawford: Yes, sir, and while we are here, on this second count, if I can show that Don Gray aided and abetted wholesale people in selling in Oklahoma, wouldn't that be pertinent to allegations of the indictment?

The Court: Well, if you can show that he aided people to engage in the wholesale business and who wilfully failed to pay the tax, as wholesale dealers.

Mr. Crawford: Show they are wholesale dealers, and didn't pay the tax.

The Court: You will have to connect him up with the wilful failure to pay the wholesale tax required by law.

(Thereupon the following proceedings were had in the hearing of the jury:)

Q. (By Mr. Crawford: Now, Mr. Chance, during the past four years you have had opportunities to observe Don Gray and his employees loading vehicles, have you not? A. Yes, sir, I have.

488] Q. And have you observed --

Mr. Shortridge: If the Court please, I think the question should be more specific; it is too general in nature.

The Court: I am under the impression that he is about to ask him a more specific question.

Q. (By Mr. Crawford) Now, have you been able to determine what is being loaded into those vehicles on occasions? A. I have noticed and watched Don Gray personally and his employees loading what appeared to be lugs of liquor from his store into Don Gray's vehicles on numerous occasions.

Q. Would you relate for the benefit of the jury --

Mr Shortridge: May I ask, if the Court please, -- we move to strike what something appeared to be to a witness; if a witness knows he should testify; if he doesn't know he just testify.

The Court: Objection overruled.

Q. (By Mr. Crawford) Would you relate for the benefit of the jury what you mean by a lug? A. A lug of liquor is a package of liquor. In the case of fifths, three bottles or fifths are wrapped in brown wrapping paper and called a lug; pints, six pints of liquor are wrapped in brown wrapping paper and called a lug; eight half pints are wrapped in brown wrapping paper and that is called a lug.

Q. Now, when these vehicles have been loaded with these
489] objects that appeared to be lugs, were they transferred there at the store or in some wooded area in the country? A. I have never seen them transferred at the store myself. I have followed them out to wooded areas and have watched them transfer from Don Gray's vehicle to Oklahoma vehicles.

Q. How long have you been an investigator with the Alcohol and Tobacco Tax Unit, Mr. Chance? A. About six years.

Q. And during that six years have you observed the operation of liquor dealers in the State of Missouri? A. Yes, for the past four and one-half years most of my time has been in that activity.

Q. Would you say that this practice of lugging is one peculiar to people buying from Oklahoma, or one that --

Mr. Malloy: Just a moment.

The Court: Let him finish his question.

Q. (By Mr. Crawford) -- or one that exists in all transactions in Missouri? A. I would say that --

Mr. Malloy: Just a moment -- just a moment before you answer.

Object to that as being improper, immaterial, tends to prove or disprove no issue in the case. It has been held that a person has a right to wrap their whisky any way
490] they want to wrap them.

The Court: It is not suggested that you don't have to use any specific kind of wrapping paper; it is a question whether any implications may properly be drawn from the practice.

Mr. Malloy: Well, Your Honor, my second objection is he is seeking to invade the province of the jury; this witness may testify to facts, but not the implication.

The Court: I will overrule the objection.

Q. (By Mr. Crawford) You may answer the question. A. I have recently been stationed at Kansas City, Missouri; I have never seen a lug of liquor in a liquor store in Kansas City, Missouri. In other liquor stores where I have made investigations, southwest Missouri, in the Joplin area, where Oklahoma liquor cars have been loaded the liquor has been lugged most of the time when it is prepared for loading into Oklahoma cars.

Mr. Shortridge: Object to what it is, or most of what is done -- what is done for most of the time, that is the answer is too general; it is not informative; it is not a statement of fact.

The Court: Overruled.

Mr. Crawford: That's all. You may inquire.

491] Cross-examination by Mr. Shortridge

Q. Mr. Chance, I want you to tell us the specific instances, aside from what has been ruled out, in March of '54, where you or your agents arrested Don Gray for violation of any United States liquor law. A. I have personally not arrested Don Gray for any other violation than the one that you -- that was ruled out.

Q. That was the one that was ruled out because of the equipment? A. Yes, sir.

Q. All right now, have you filed any complaint against him? A. No, sir, I haven't filed any complaints against him.

Q. You have been the officer in charge ever since Mr. Burns left Joplin? A. No, sir.

Q. Who has been? A. I was in charge of the Joplin office for about two and a half years, and for the past two years Glenn Starrett has been in charge of the Joplin office.

Q. During those two and a half years please tell Mrs. Davis and these gentlemen whether or not you filed a single solitary complaint against Don Gray? A. I filed one, the one that you mentioned that was ruled out. We seized three of his vehicles, and haven't filed any other complaints.

Q. And when was that? A. When was which?

492] Q. When you filed a complaint? A. I said I haven't filed a complaint other than the one in '54.

Q. Yes. That was the only one you ever filed against him? A. Yes, sir.

Q. And it was your duty as chief alcohol tax unit agent to file complaints upon any knowledge you had of violations of the Federal Law regarding liquor.

Mr. Crawford: If the Court please, I object to that line of questioning unless it can be made clear what the purpose is; is he reflecting upon the man's integrity, or his competence; or is he trying to establish facts?

The Court: Objection overruled.

Q. (By Mr. Shortridge) It was your duty to file complaints any time you believed anybody was violating the Federal Law? A. I wouldn't never file a complaint unless I --

Q. Go ahead; I say, did you know that that was your duty? A. I would never file a complaint unless I believed there was sufficient evidence that the man was guilty of violation.

The Court: You recognize -- wait just a minute --

493] The Witness: Excuse me.

The Court: You of course realize that your belief that a man is violating the law is not sufficient to convict?

A. That's right, yes.

The Court: You file complaints when you feel that you have enough evidence which would be admissible in a court in a trial to justify -- a trial by a trial jury, to return a verdict of guilty, is that correct?

A. Yes, sir, that's right.

Q. (By Mr. Shortridge) You file a complaint -- you file the complaint and then leave it up to the Justice Department, do you not? A. If I file a complaint I make reports and then give whatever assistance is required or asked, of the Justice Department, that's right.

Q. In fact, you arrest upon suspicion, do you not? A. No, sir.

Q. Haven't you ever arrested a man and then turned him loose? A. No, sir, I have never arrested a man and turned him loose; I'm not authorized to turn him loose.

Q. After the complaint was dismissed? A. I didn't turn the man loose after the complaint was dismissed.

Q. Haven't you ever arrested a man merely upon suspicion?

494] The Court: I think the question is going too far afield.

Q. (By Mr. Shortridge) Now, Mr. Chance --

The Court: It is not designed to elicit any information that would be material to the case.

Q. (By Mr. Shortridge) Tell us of these other specific instances where you saw, as you say, cars loaded. A. Well, several days prior to January 7 of 1953, before the arrest of Carl Harp, I was with investigator Burns and we watched lugs of liquor being loaded into Don Gray's truck a minimum of four different times that I know of. I don't have the exact dates but it was in December 1952, at least four times that I know that liquor was being loaded into Don Gray's truck, or a car.

Q. Into his own truck or a car? A. Into his own truck or a car of one of his employees -- one of his vehicles.

Q. Were any arrests made with regard to that? A. Not until the Carl Harp seizure.

Q. So you don't know where that liquor went, do you? A. No, sir, I don't.

Q. Do you know of any other instances besides what you have related? A. Yes, sir, during the year of '53, '54 on

other dates I watched lugs of liquor being loaded into Don Gray's vehicle at the liquor store near Opolis, Kansas, I don't
495] have the dates.
Q. Were any arrests made in regard to that? A. No, sir.
Q. Do you know where that liquor went? A. I can't say where it went, no, sir.
Q. You don't know where any of it went, do you? A. It didn't come back to the store.
Q. You don't know where it went? A. No, sir.

Mr. Shortridge: That's all.

The Court: Incidentally, Mr. Chance, you can tell us at about what point the Carl Harp vehicle was stopped, at some point in Missouri?

A. Yes, Your Honor, about one mile from the Oklahoma line, just east of Tiff City.

The Court: All right.

Mr. Shortridge: Your Honor, I would like to ask one more question or two of Mr. Chance.

Q. (By Mr Shortridge) Mr. Chance, you are familiar with liquor enforcement in Missouri and Oklahoma and Kansas, are you not? A. Yes, sir.
Q. And don't you know that the Kansas officers have made a concerted effort to prevent people buying whisky in Missouri and taking it to Kansas. A. I can't say what the Kansas
496] officers have done; I haven't worked with them.
Q. Haven't you read those articles in the newspapers?

Mr. Crawford: If the Court please, that is improper; we object.

The Court: That would be inadmissible.

Mr. Shortridge: I want to know what he knows.

The Court: Any statement based on what he might have read in the newspapers would not be admissible.

Q. (By Mr. Shortridge) Do you know whether or not you

can buy liquor cheaper in Missouri than in Kansas?

The Court: I believe that is immaterial. It might be of interest, but not material, in this case.

Mr. Shortridge: I think that's all.

Mr. Crawford: That's all, Mr. Chance.

497] JOHN L. OVERTURF, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. John L. Overturf. A. You are an investigator of the Alcohol and Tobacco Tax Unit, are you not? A. Yes, sir.

Q. How long have you been so employed? A. Five and a quarter years.

Q. Where are you presently stationed? A. Cape Girardeau, Missouri.

Q. Do you know the defendant Don Gray? A. Yes, sir.

Q. Have you had occasion to observe liquor stores operated by him? A. Yes, sir.

Q. Do you recall when the last time was? A. It was in March 1954.

Q. And what particular store -- was that one of the Horseshoe package stores? A. It was a Horseshoe package store.

(Thereupon Mr. Crawford and Mr. Shortridge conferred with the Court at the Bench.)

498] The Court: Do you have any further questions?

Mr. Crawford: No, sir.

The Court: I think I should advise the jury -- you perhaps have some curiosity about why the Court ruled as a result of the conference here at the Bench that evidence pertaining to a transaction in 1954 in which Mr. Gray was involved is not admissible. As a result of that transaction I am advised that Mr. Gray was charged in the United States District Court in Kansas - is that right?

Mr. Shortridge: That's right, yes, sir, that's correct.

The Court: Kansas, with an unlawful conspiracy to transport liquor into Oklahoma?

Mr. Shortridge: Yes, sir

The Court: He was tried and acquitted on that charge as a result of the acquittai on that charge I have concluded that any evidence with respect to it would be inadmissible, in this case And this witness is called to testify about the same transaction, was he not?

Mr Crawford: Apparently it is the same transaction.

I have another point or two, but it appears to be related to the same transaction.

I have no further questions from this witness.

499] GLENN STARRETT, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Glenn Starrett.
Q. Mr. Starrett, you are an investigator with the Alcohol and Tobacco Tax Unit, are you not? A. Yes, sir.
Q. How long have you been so employed? A. About thirty years.
Q Do you know the defendant Don Gray? A. Yes, sir.
Q About how long have you known him? A. I have known Don Gray on sight the last three or four years I think; I have heard of him for the last six or seven years.

Mr. Shortridge: Move that the last remark be stricken.

The Court: Overruled.

Q. (By Mr. Crawford) Now, Mr. Starrett, on January 7, 1953 you were in the lobby of the Barns Hotel there in Anderson,

Missouri, when you overheard the telephone conversation by Mr. Gray, were you not? A. Yes, sir.

Q. Did you make a notation of those numbers? A. Yes, sir.

500] Mr. Malloy: If Your Honor please, I didn't hear that date; what was that date?

Mr. Crawford: January 7, 1953.

Mr. Malloy: Isn't this cumulative testimony with respect to telephone conversations?

The Court: Yes, it is cumulative.

Mr. Malloy: Object to it for that reason.

The Court: But not objectionable on that account. It might be unnecessary but it is still admissible, if you care to make the proof.

Q. (By Mr. Crawford) Now, Mr. Starrett on April 23, 1955, you had occasion to investigate a circumstance involving an automobile loaded at one of Don Gray's stores, did you not? A. Yes, sir.

Q. Would you tell the jury the facts relating to that observation.

Mr. Shortridge: What was that date, please?

Mr. Crawford: April 23, 1955.

Q. Don Gray's stores was under observation, his two stores was under observation. He loaded his Hudson sedan at the south store, in the evening -

Q. What was the name of the store, do you know? A. I know it as the Airport Store.

A. All right. A. And it was loaded at the Airport
501] Store and then later driven down to the Horseshoe Package Store; the stores are less than half a mile apart.

Q. Was the Horseshoe Package Store operated by Don Gray also? A. Yes, sir.

Q. All right, and then what happened? A. And the car sat there at the Horseshoe Store until about 6 A.M. the next morning and at that time it was driven from the Horseshoe Store

premises north on Highway 57 and on north on the State line road and the car went north eleven miles as far as it could go and turned west into Kansas a mile and was lost in the traffic, lost in the vicinity of very rough country up there; old strip mine dumps, trash, -- and timber, and my assistant, the other investigator was searching for the Hudson sedan and about an hour later I was coming south --

Q. In that rough country you are speaking of is there much vehicle traffic? A. Not a great deal of vehicle traffic, no, sir. And a very few houses in that particular locality.

Q. You say about an hour later you stopped a car? A. About an hour later, a '53 Mercury came from the direction of Missouri, on the State road on which there was no houses, crossed the road in front of me and continued on west on the State road. I turned my car in behind this Mercury and the Mercury took off at a high rate of speed and I just made
502] it around a section over there in Kansas, and he got back into Missouri before I could get him stopped. And the Mercury was occupied by one man, who told me --

Mr. Shortridge: Just a minute I would like to approach the Bench with the United States Attorney.

(Thereupon Mr. Shortridge and Mr. Crawford conferred with the Court at the Bench.)

Q. (By Mr. Crawford) Do you know who the man was that was driving the car, Mr. Starrett? A. Yes, sir, he told me who he was.

Q. Well, do you know who it was? A. Yes, sir.

Q. Who was it. A. Lefty Anderson.

Q. Do you know where he was from? A. Sapulpa, Oklahoma.

Q. All right now, did you have occasion to make an investigation as recently as May 14, 1956? A. Yes, sir.

Q. And did that relate to a liquor store operated by Don Gray? A. Yes, sir.

Q. Would you relate to the jury the facts of that observation? A. This incident happened during the afternoon of May 14, 1956, and Mr. Gray's -- same 1950 Hudson sedan
503] was observed being loaded at this Airport Store and it later left the store and went north on 57 Highway and then on up this State line road, which is a continuation of 57 Highway, going straight north, and this car went up to the vicinity of Mendenmines, Missouri, and then east, back to the

village of Mindenmines, and south on side roads, heading back south, and on this trip he drove around two of our Government cars equipped with red lights, and the driver came back to the State line, rode about a mile north of Opolis, Kansas, he turned south on this State line road and I stopped him, and Robert Faucet was driving the Hudson, an employee of Don Gray, and the Hudson contained fifty cases of liquor.

Q. Mr. Starrett, for the benefit of the jury how far is Opolis, Kansas, from Missouri? A. It is right on the Missouri-Kansas state line.

Q. About how far would it be from Oklahoma? A. Direct -- direct line would be twenty-five miles; it would be clear across Cherokee County, Kansas, twenty-five miles straight south, by road it would be a little bit farther.

Q. So it is all just north of Oklahoma, is that right? A. Yes, sir.

Q. All right now, on November 5, 1956, did you have occasion to --

504] The Court: Just a moment, Mr. Crawford; it is 12 o'clock. We will stop at this point for lunch and we will be in recess until 1:30. Please be back in the jury box promptly at 1:30.

* * * * *

505] Q. (By Mr. Crawford) Now, Mr. Starrett, prior to the noon recess I asked you if you had occasion on November 5, 1956, to observe any loading activities at the Airport Store? A. Yes, sir.

Q. And were you in company with special investigator Gibson at that time? A. I was.

Q. And did you see an automobile being loaded at that store on November 5, 1956? A. Yes, sir.

Q. What type of an automobile was it? A. A 1950 Chrysler sedan.

Q. What was being loaded into it? A. Lugs of liquor.

Q. All right, did you subsequently stop, or search that car? A. Yes, sir.

Q. Where was it at the time you stopped it? A. Approximately four miles southeas. of the Airport Store.

Q. Is that in the direction of Oklahoma? A. No, sir.

Q. And how far from Oklahoma would that be? A. It would
506] be in the neighborhood of twenty-five miles.

Q. Do you know where the car was going at that time? A. No, sir

Q. And was Mr. Gray driving it? A. No, sir.

Q. Was Mr Gray in the car? A. Yes, sir.

Q. And did you have a conversation with him at that time? A. Yes, sir

A. And what did he say? A. Mr. Gray told me that he had sixty cases in that car, and further, Mr. Gray told me he was going duck hunting.

Q. With sixty cases? A. Yes, sir.

Q. Who was the other man driving the car? A. A boy by the name of Adams.

Q. Do you know whether he is an employee of Gray's? A. Mr. Gray said he was his employee.

Q. He told you that at the time? A. Yes, sir.

Q. Now on December 18, 1956, did you have occasion to observe Gray's Airport Liquor Store? A. Yes, sir.

Q. And did you see a car there at that time? A. No, sir.

507] Q. Did a car ever come in and out of there that you observed on December 18? A. Out of there, yes, sir.

Q. What type of car was that? A. There was two of them left together, sir; a '55 or '56 Pontiac and a Ford, '53 Ford.

Q. Did you follow either of those cars? A. I followed both of them.

Q. And which one was just ahead of you as you followed them? A. When I first fell in behind the cars the Pontiac was behind; that would be in front of me. And a short distance the Pontiac passed the Ford and then I went back and forth.

Q. And did you observe the license plates on those cars? A. Yes, sir.

Q. And do you recall what states the license plate represented on the Ford? A. No, sir.

Q. Now, did you subsequently stop that car? A. Yes, sir.

Q. And where did you stop it? A. About three miles east of Parsons, Kansas.

Q. And who was in the car at that time? A. Fred A. Griffing

Q. The defendant Fred A. Griffing? A. Yes, sir.

508] Q. Was there anybody else with him? A. No, sir.

Q. Did you determine how much liquor, if any, was in the car at that time? A. Yes, sir.

Q. How much was in there? A. Forty-seven cases.

Q. And did you have a conversation with Griffing at that time A. Yes, sir, I talked to him.

Q. And what did he say? A. I first asked Mr. Griffing his name and he told me. And I knew that Mr. Griffing lived at Rulsa, Oklahoma; I had previously seen him down here at Tulsa; and I asked Mr. Griffing how much liquor he had in that car. And he said, well, Mr. Starrett, I don't believe I ought to tell you that. And I asked Mr. Griffing if he had a RLD stamp of Tulsa, Oklahoma, a current RLD stamp, and he said that he did have. And Mr. Griffing also volunteered to me that he had a pistol in his car, and I got -- I told him to give it to me and he did, and I also later on -- Mr. Griffing asked me if he could then -- make a telephone call to Tulsa, Oklahoma, and I told him that he -- I said, who do you want to talk to; and he said, I want to talk to my daughter, and I said -- asked him what he wanted to talk to her about and he said, Well, he said, I have got a good retail business down there at Tulsa, and I don't want to lose it. And I told Mr. Griffing that when he got to Pittsburg, Kansas that he could make a telephone call.

Q. Did he make that call in Pittsburg to the best of
509] your knowledge? A. Personally, I don't know.

Q. All right now, do you have a report there, Mr. Starrett, from which you may refresh your memory as to the license tag on the Ford car that Griffing was driving at that time? A. I do not have right here. As I recall it was a Kansas tag.

Q. On the '53 Ford? A. Yes, sir.

Q. Now, Mr. Starrett, directing your attention to January 11, 1957, did you have an occasion on that date to observe any transfers or loadings involving the defendant Don Gray? A. I did not personally observe any transfers.

Q. Will you tell the jury just what you did observe? A. I was in the country about nine miles east of Don Gray's Airport Liquor Store in the vicinity of a known transfer place, that is a place in the brush where transfers of liquor are made.

Mr. Shortridge: Just a moment, Your Honor; I think the officer is testifying as to his opinion and not as to facts.

510] The Court: I will overrule the objection

A. I was there in conjunction with other investigators and special investigators. We were all in radio communication. And I received information from special investigators Gibson and Chance that -- to the effect --

Mr. Hickman: We object to the information.

The Court: You can't state what information you received.

Mr Crawford: You can say that you did receive information; you did receive a radio call, is that right? A. I did.

Q. What did you do after you received the call? A. I took up a position east of the transfer place.

Q. And what did you observe there? A. I did not observe anything there; I was hidden.

Q. All right and how long did you remain there? A. I remained there until -- let's see, -- until about, I believe about 5:30, until 6 P.M., at which time I observed -- I followed a Ford, a '56 Ford south from a point about a half a mile east of this transfer place. The first, when I first sighted it it was traveling without lights, and after proceeding about one hundred --

Q. Was that at night time? A. It was dark then, sir.

Q Yes. A. And after it proceeded about one hundred
511] yards south, the lights were turned on on the Ford, and in conjunction with special investigators Gibson and Chance I followed this Ford for about -- approximately eleven miles south and west of that point, and the Ford was stopped near that point, about eleven miles southwest of where it started, and a man by the name of Paul Edward Neal was driving this Ford.

Q. Was there any alcoholic beverages in the car? A. Thirty-two cases of liquor.

Q. Now, Mr. Starrett, this '53 Ford bearing the Kansas tag that you referred to and driven by the defendant Fred A. Griffing, with reference to that car did you make an examination of it? A. Yes, sir.

Q. Did you find anything unusual about it? A. Yes, sir.

Q. And what did you find? A. That '53 Ford was equipped with a Cadillac engine.

Q. And did it have any unusual light switches, that is unusual insofar as the normal use of an automobile might be concerned? A It had switches under the dash to cut off the stop and tail lights -- stop lights and tail lights, switches under the dash, which is customary equipment on those cars.

Q. By "those cars" you mean cars used in the bootlegging
512] business? A. Yes, sir.

Mr Crawford: You may examine.

Cross-examination by Mr Malloy

Q. Just a coupe of questions, please, sir Again directing your attention to the occasion in January I believe or, no, December, of 1956, is that the Griffing car incident? A. December 1956?

Q. Whatever date it is at any rate, the Griffing car.

The Court: December 18, that's right.

A. December 18, yes, sir.

Q. (By Mr. Malloy) As I understand it, Mr Starrett, the first time you saw the car you didn't see it come up to Mr. Gray's place at all, did you? A. I did not see it come to Gray's place, no, sir.

Q. In other words, you don't know where it came from to Mr. Gray's place, do you? A. No, sir.

Q. The first time you observed this car was when it was leaving? A. Yes, sir.

Q. And you followed it approximately how far, Mr. Starrett? A. It would be in the neighborhood of around thirty-five miles.

Q. And during that entire time was this automobile en-
513] tirely within the states of Missouri and Kansas? A. Yes, sir.

Q. Missouri or Kansas? A. Yes, sir.

Mr. Malloy: That's all.

Mr. Shortridge: I would like to ask a question, Your Honor.

The Court: All right.

Cross-examination by Mr. Shortridge

Q. Mr. Starrett, Mr. Neal is not named in this indictment; is he from Tulsa? A. Oklahoma City, sir.

Q. He doesn't have anything to do with this --

Mr. Shortridge: Your Honor, we move to strike all the testimony with regard to transactions of January 11, as being beyond the scope of any allegation in the indictment Paul Neal is not named as a defendant or a co-conspirator, or even being from Tulsa or the Northern District of Oklahoma.

The Court: What do you say about that?

Mr Crawford: If the Court please, the evidence is not introduced as against Mr. Neal, but to show the operations on the part of the defendant Don Gray. It is, theoretically, just as dry in Oklahoma City as it is in Tulsa, and one of the allegations that we are endeavoring to establish --

514] Mr. Shortridge: May we approach the Bench, Your Honor.

(Thereupon Mr. Shortridge and Mr. Crawford conferred with the Court at the Bench.)

The Court: I will sustain the motion that the jury is advised not to consider the testimony of the witness with respect to the Neal incident -- that is, in respect to the testimony of the witness concerning the automobile that was stopped in which was found thirty-two cases, and which was driven by a party by the name of Neal; and you are advised not to consider it because it is my opinion that the evidence doesn't ten to prove the issues in this case; it is not material to any issue in this case. Or at least doesn't have sufficient probative value to be considered.

Q. (By Mr. Shortridge) Mr. Starrett, you testified with regard to a transaction of April 23, 1955, when you stopped a Mercury car and found some liquor? A. Yes, sir.

Q. And I believe Mr. Anderson was in the car? A. Yes, sir.

Q. You didn't arrest Mr. Gray with regard to that transaction, did you? A. No, sir.

Q. And you were the agent in charge in Joplin at that

515] time? A. Yes, sir.

Q. And in fact you never saw Mr. Gray near that car, did you? A. No, sir.

Q. And in -- on May 14, 1956, I believe you said you stopped a man by the name of Faucet? A. Yes, sir.

Q. Were any Federal charges filed against Faucet or Gray? A. No, sir.

Q. In fact you turned Mr. Faucet over to the Kansas authorities, didn't you? A. Yes, sir.

Mr. Shortridge: I believe that's all.

Jay L. Jones et al. vs. United States of America

Redirect Examination by Mr. Crawford

Q. Mr. Starrett, in your years of experience as an alcohol and tobacco tax investigator, you have observed Mr. Gray's Greenwood Tobacco Store? A. Yes, sir.

Q. From which whisky was sold? A. Yes, sir.

Q. Where is that store located with regard to a city or a town? A. That store is located on US Highway 166, southwest of Joplin, about -- about two miles east of the Kansas-Missouri state line.

516] Q. Would you say that store is in the country or in the town? A. It is in the country.

Q. Now where is or where was the Horseshoe Store No. 1, that was owned by Mr. Gray? A. At Anderson, Missouri.

Q. And how large a city is Anderson? A. Oh, it is a small town, around 800, I believe -- 800 population, something like that.

Q. And is this Horseshoe Store located near, in the town, or on the edge of it? A. No, it was on the edge -- out north of Anderson on US Highway 71. Now I can't say whether it is inside of the city limits of Anderson; I don't know where the city limits are, on US Highway 71; it was outside Anderson.

Q. With regard to the Horseshoe Store No. 2, where was it located? A. Horseshoe No. 2 is located on Missouri Highway 57 at its junction with Jasper County H road, and that is just a few yards from the Kansas-Missouri state line, and a short distance south of the village of Opolis, Kansas.

Q. How much is -- how large is the village of Opolis, Kansas? A. I can't say exactly, just a very small village, 100 or 200 possibly, population.

517] Q. Now with regard to the liquor store, where is it located with respect to a town or village? A. The Airport Liquor Store is located less than one-half miles south of the -- of the Horseshoe Package on Missouri Highway 57, and that would be south of Opolis a little over a half a mile.

Q. A little over a half a mile from Opolis? A. Yes, sir, and it is also just not very far from the Missouri-Kansas state line.

Mr. Crawford: All right, sir, you may be excused.

The Court: Any further cross-examination?

Cross-examination by Mr. Shortridge

Q. Mr. Starrett, Mr. Gray didn't operate all these stores then at one time, did he? A. No, he didn't.

Q. In fact, he was out of business from the fall of '52 until sometime -- or the fall of '53 until sometime in '54, wasn't he? -- Entirely out of the liquor business? A. No, sir.

Q. Did he sell his store at Anderson? A. He disposed of the store at Anderson. I can't tell you exactly when, but he had the -- the so-called Horseshoe No. 2. up there by Opolis, Kansas.

Q. Was that operated at that time too? Think back.

518] A. Yes, sir, -- yes, sir, during the period you say, -- yes, sir.

Q. Was there ever a time that he wasn't operating a liquor store? A. Not to my recollection, I don't --

Q. You don't remember that he sold out down at Anderson and was out of business some six or eight months? A. I certainly do not.

Q. Of course you checked the licenses -- A. Sir?

Q. You checked the licenses of stores, did you not? A. The licenses?

Q. Yes. A. We check the tax stamps; as far as I am concerned, I never did check only the tax stamp.

Q. And also you know, do you not, that you check all those stores' wholesale reports and everything else, don't you? A. We check all reports of the wholesalers at Joplin, yes, sir.

Q. And you know that there are a great many liquor dealers in southwest Missouri besides Mr. Gray, are there not? A. There is quite a number of them, yes, sir.

Mr. Shortridge: That's all.

519] Redirect Examination by Mr. Crawford

Q. With regard to these other liquor dealers, Mr. Starrett, would you say Mr. Gray's volume of business is greater or less, or the same?

Mr. Shortridge: Just a moment; that is calling for a conclusion. If there are any figures on it --

Mr. Crawford: If the Court please, Mr. Shortridge has laid a predicate for that question by bringing out --

The Court: He may answer if he knows; I don't know whether he knows or not. Do you know what his volume of business was as compared to those other dealers, at specific periods or times?

A. Just what period are you speaking of?
Q. (By Mr. Crawford) Well, let's say the last year. A. Yes, sir.
Q. And what is that? A. According to our records Don Gray handled more whisky than any other liquor dealer in southwest Missouri.

Cross-examination by Mr. Shortridge

Q. But that has just been true during the last year, is that true? A. No, sir.
Q. Did you bring any records with you? A. Yes, sir, I have records.
Q. Could I see them?
520]
Mr. Crawford: If the Court please, I am going to introduce them by another witness in a few minutes.

The Court: All right, anything further?

Mr. Crawford: No, Your Honor.

The Court: You will be excused.

ROBERT E. HINES, called as a witness of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Robert E. Hines? A. Yes, sir.
Q. You are an investigator with the Alcohol and Tobacco Tax Unit, is that correct? A. Yes, sir.
Q. Do you know the defendant Fred A. Griffing? A. By sight on one occasion.
Q. When was the one occasion you saw him, Mr. Hines? A. That was on December 18, 1956.

Q. Did you participate in a watch that was set up on the Airport Liquor Store and Don Gray, on that date? A. Yes, sir.

Q. Who was with you at that time? A. I was riding with
521] Investigator John Smith that day.

Q. And did you see an automobile enter or leave the Airport Store on that day? A. I saw two leave that day.

Q. What type of cars were they? A. They appeared to be sedans; other than that I wasn't where I could tell.

Q. Now, were you with Investigator Starrett at the time Mr. Griffing was stopped? A. No, I wasn't.

Q. And where did you actually see Griffing then on that day? A. I saw Griffing as we arrived at the location that Starrett had arrested --

Q. He was there in the automobile at that time? A. He was standing outside, talking to Investigator Glenn Starrett at that time.

Q. But your assignment for that day was to watch the Airport Liquor Store, is that correct? A. Yes, sir.

Q. And then to pass any information that you might have for the other agents, such as Starrett, is that correct? A. That's correct.

Mr. Crawford: That's all.

Mr. Malloy: No questions.

522] E.S. GIBSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is E.S. Gibson? A. Yes, sir.

Q. Mr. Gibson, you are a special investigator with the Alcohol and Tobacco Tax Unit, is that correct? A. Yes, sir.

Q. For the benefit of the jury, Mr. Gibson, would you explain the difference between a Special Investigator and an Investigator?

Mr. Gotcher: To which we object as incompetent, irrelevant and immaterial. He can qualify him if there is any purpose in it.

The Court: Objection overruled. I would like to know myself.

A. I will put it as briefly as I can. The Department likes for us to confine our efforts to cases that they consider of major importance. Probably conspiracy cases involving may be a number of defendants in a widely scattered areas sometimes.

Q. (By Mr. Crawford) Are you describing the assignments of a special investigator, now? A. Yes, sir.

Q. That is, as opposed to an investigator. A. Well, 523] yes, sir.

The Court: I believe that is adequate.

Q. (By Mr. Crawford) All right, now, Mr. Gibson, were you in company with Investigator Starrett when Mr. Don Gray was stopped on his hunting trip? A. Yes, sir.

Q. And were you close enough to hear the conversation at that time? A. Yes, sir.

Q. And did you hear Mr. Gray say that he had about sixty cases?

Mr. Ungerman: We object to counsel testifying unless he is going to be a witness.

The Court: Sustained.

Q. (By Mr. Crawford) Did you hear the statement of Mr. Gray at that time? A. I did.

Q. What was that statement? A. Mr. Gray said that he had approximately sixty cases of liquor in the car, and that he was on his way duck hunting -- he had a shot gun and a pistol in the car, and a young man was driving the car who stated that his name was Adams.

Q. How long have you known Don Gray, Mr. Gibson? A. Since sometime in the spring or early summer of 1953.

Mr. Crawford: You may examine.

524] Cross-examination by Mr. Shortridge

Q. Mr. Gibson, neither you nor Mr. Starrett arrested Mr. Gray on November 5 -- was it, when you talked to him? A. Yes, that was the date. What was your question?

Q. I say, you didn't arrest him, did you? A. No, we did not.

Q. Of course seizure is part of your enforcement procedure isn't it? A. Yes, sir.

Q. When you believe there is a violation. A. Yes, sir.

Q. But you did not seize it? A. We did not seize the liquor nor arrest him at that time.

Mr. Shortridge: Thank you; that's all.

The Court: That's all, Mr. Gibson.

Mr. Crawford: That's all.

JOHN F. SMITH, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

525] Q. Your name is John F. Smith? A. That's right.

Q. You are investigator with the Alcohol and Tobacco Tax, is that right? A. That's right, yes, sir.

Q. How long have you been so employed, Mr. Smith? A. Since June 30, 1952.

Q. Do you know the defendant Fred A. Griffing? A. I met him just once.

Q. When was that one time. A. That was on December 18, 1956.

Q. And what was your assignment that day, Mr. Smith? A. My assignment was to relay radio messages.

Mr. Malloy: This is just cumulative; I don't like to object to it; it seems to me like it is repetition, in an effort to keep repeating the defendants' names -- no particular purpose in it -- if there is anything new to be added --

Mr. Crawford: The only purpose, Your Honor, in putting this testimony on is to corroborate the statements that there were agents and messages were received. This is the man that transmitted the messages.

The Court: The objection is overruled.

Q. (By Mr. Crawford) Your assignment then was to transmit messages, is that correct? A. Yes, sir.

Q. From whom did you receive those messages? A. Investi-
526] gator Robert Hines.

Q. To whom did you transmit them? A. I transmitted them all to other investigators who were stationed in their radio cars around the Gray store.

Q. Which store was that of Gray's? A. That was the Airport Store.

Mr. Crawford: You may inquire.

Mr. Malloy: No questions.

The Court: That's all.

ROBERT W. GLAZER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Robert W. Glazer? A. Yes, sir.

Q. You are an investigator of the Alcohol and Tobacco Tax Division? A. Yes, sir.

Q. Mr. Glazer, do you know the defendant Don Gray?
527] A. Yes, sir, I do.

Q. Do you know him by sight, or do you know him personally? A. I have seen him; I know him by sight, or have seen him.

Q. Have you ever observed him loading items into automobiles near the Airport Liquor Store? A. Yes, sir.

Q. When was one occasion? A. On June 23, I believe it was 1955.

Q. And what was he loading into the automobile? Q. It appeared to be a lug of liquor.

Q. A lug of liquor? A. Well, he stopped when he saw us watching him.

Q. What did he do after he stopped; did he go back inside? A. Well, he came over and talked to us. We were twenty feet from him.

Q. Did you have a conversation with him at that time? A. Yes, sir, just the usual passing the time of day.

Q. What type of car was it that he was loading? A. A 1950 Hudson.

Mr. Crawford: That's all.

The Court: Any cross-examination?

Mr. Ungerman: No questions.

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TRANSCRIPT OF RECORD

United States Court Of Appeals

TENTH CIRCUIT

Nos. 3678 to 3693,

inclusive

JAY L JONES, PAUL J. LIVINGSTON, JACK GOTT, LEO BRANTLEY JACKSON, JOHNNY E. COLE, JAMES RICHARD HARP, WILLIAM THOMAS PETERSON, OLIVER B STEPHENS, JOHN E. McAFEE, T. MARTIN EDWARDS, ELMER LEE OAKLEY, JOHN DAVID HOOD, F LEE JOHNSON, PAUL DONLEY RUCKER, FRED A. GRIFFING and DON GRAY,

Appellants,

vs

UNITED STATES OF AMERICA,

Appellee.

Volume No. III -- Pages 299-511

Appeals from The United States District Court
For The Northern District of Oklahoma

Filed July 30, 1937

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528] WILLIE LIONEL LAWSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. Willie Lionel Lawson.

Q. You are sometimes known as Peewee Lawson, are you not? A. Yes, sir.

Q. You have been engaged in the liquor business in and about the City of Tulsa for some period of years, have you not? A. Yes, sir.

Q. Do you know the defendant Don Gray? A. I have seen him, yes, sir.

Q. Where have you seen him? A. At his store, the other side of Bagnell.

Q. That is in Missouri? A. Yes, sir.

Q. Have you ever purchased any liquor from Don Gray? A. Yes, sir.

Q. When did you first purchase liquor from him? A. I don't remember offhand; somewhere around '49 or '50.

Q. Somewhere around '49 or '50. And about how many times did you buy from him in 1949 or '50?

Mr. Ungerman: That;s objected to as incompetent, irrele-
529] vant and immaterial, for the reason there was no law at that time prohibiting importation of liquor into Oklahoma.

The Court: It would depend upon the precise date; if it was prior to May 13, 1949, it would be material, otherwise not material.

Q. (By Mr. Crawford) Would this have been prior to --

Mr. Ungerman: We object to counsel leading the witness.

The Court: Overruled.

Q. (By Mr. Crawford) Would this have been prior to May 13, 1949? A. I don't remember.

Q. And the name of the store, could the name of the store have been the Greenwood Tobacco Store? A. Yes, sir.

Q. That was the name of it? A. Yes, sir.

Q. Do you have any way that you may refresh your memory, Mr. Lawson, to determine the date more approximately or more definitely? A. No, that is too long back; I don't have records that far back.

Q. Well, who did you first -- with whom did you first go to Don Gray? A. Bob Bates.

Q. And did he make purchases at that time?

530]

Mr. Ungerman: Just a moment; we object to that unless counsel fixed the exact date upon which this transaction took place.

The Court: He wouldn't have to fix the exact date.

Mr. Ungerman: Within the realm so the Court would be able to determine whether or not the law was effective or not.

The Court: Correct.

Q. (By Mr. Crawford) Well, I am endeavoring to do that through possibly Mr. Bates' testimony.

The Court: Yes, all right, go ahead, finish your question; I don't think you finished your question.

Q. (By Mr. Crawford) Did Mr. Bates make purchase at that time? A. We were together.

Q. And you purchased for each other? A. Yes, sir.

Q. Now, how long after that did you make purchases from Don Gray? A. I was over there either four or five times.

Q. After that time? A. Yes.

Q. Do you know how many months passed from the time you first went up with Bob Bates? A. Oh, just a short period, I would say a week, two weeks.

531] Q. Were all of the purchases that you made from Don Gray within a week or two weeks after your first trip up there with Bob Bates? A. Yes, sir.

Q. And how much was purchased each time by you?

Mr. Ungerman: We object to all this for the reason that counsel has not yet been able to show the exact date. There was no law prohibiting the importation of liquor from Missouri into Oklahoma --

The Court: Well, do you have other evidence that might fix the date?

Mr. Crawford: I am going to endeavor to do that by Bob Bates, Your Honor.

The Court: Well, it won't hurt anything; it can't be prejudicial to the defendant because if it was during the two-year period when it wasn't illegal why of course it doesn't tend to prove any unlawful conduct; it won't have any value unless the date is fixed by another witness. So I will overrule the objection.

Mr. Ungerman: If Your Honor please --

The Court: The evidence of course won't be considered unless there is other evidence presented which will fix the date at a period prior to May 13, 1949.

532] Q. (By Mr. Crawford) Now, Mr. Lawson, approximately how many cases did you buy from Don Gray per trip? A. Not more than fifteen at any one time.

Q. Not more than fifteen? A. No, sir.

Q. Was it somewhere between ten and fifteen, or less?

Mr. Ungerman: May we object to it, and have a running objection to all of the testimony of the witness Peewee Lawson on the ground it is incompetent, irrelevant and immaterial, and the fact that there was no law prohibiting the importation of liquor into Oklahoma during that two-year period.

The Court: Yes, the record may show that you object to it for that reason.

Mr. Malloy: Let me make the further objection: Mr. Crawford can tie this up apparently through the witness Bates the matter of prejudicial interests, so far as we are concerned; wouldn't it be better for him to get Mr. Bates in here, then and attempt to let him testify before this jury, than not to tie it up?

The Court: Well, it would except we already have Lawson on the witness stand, and furthermore, the evidence cannot be prejudicial. It might be immaterial, but not prejudicial

because if the sales were made during the period when it wasn't illegal, it can't hurt Gray to have that shown.

533] Mr. Malloy: I understand that legally, Your Honor, but I am thinking about the import upon this jury, sitting here, whether they are going to sit their way through, and throw this out, it having been not there at that time.

The Court: Well, I will take care of that.

Mr. Malloy: All right.

Mr. Crawford: If the Court please, I have no further questions of this witness at this time.

The Court: Do you care to cross-examine?

Mr. Hickman: No, sir.

Mr. Ungerman: No, sir.

The Court: That's all.

HERSCHEL MATHIS, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Mathis, do you know the defendant Don Gray? A. Yes, sir.
Q. Have you ever purchased liquors from him? A. Yes, sir.
Q. And when did you make your first purchase from Don Gray? A. I really couldn't say.
Q. Do you recall the year? A. It seems like it was '50.
534] Q. 1950? A. Uh huh.
Q. All right, how did you happen to contact Don Gray?

Mr. Ungerman: We object to that as being incompetent, irrelevant and immaterial, during the particular period in which there was no prohibition against importation --

Q. (By Mr. Crawford) All right, did you buy any liquor from him over a period of a large amount of time, over a period of several months? A. Something like a year, yes.

Q. Do you recall when the last time was, Mr. Mathis, that you bought from Don Gray? A. I believe the last I bought was sometime in January -- I mean December.

Q. Of 1951? A. Yes -- after Christmas I believe it was.

Mr. Rucker: '50?

Mr. Crawford: Well, that's within the time.

Mr. Ungerman: I would like to know -- I don't know what the witness testified to yet.

The Court: The comments of counsel are not --

Mr. Crawford: I appreciate that, --

The Court: Do you say your last purchase was December
535] 1951, Mr. Witness?

A. No, I believe it was '50, -- I'm not sure.

The Court: When do you say you -- over what period of time did you make purchases?

A. Well, something like a year.

The Court: You would say about a year?

A. Yes.

The Court: It is your best recollection that the first purchase was made in '50?

A. Yes, I am sure that's right.

The Court: And when did you --

A. I don't know offhand; I would say somewhere around '50.

The Court: When did you say you made the last purchase?

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A. I think I quit buying from him after Christmas.

The Court: '50 or '51?

A. '50.

Mr. Ungerman: Move all the testimony of the witness be stricken and the jury admonished not to consider any part of it.

The Court: The evidence would not be material to any issue in the case if the purchases were made during '50 or '51, because during that period it wasn't unlawful to import whisky into the State of Oklahoma -- that is, it wasn't a violation of Federal Law; therefore it would not be material to the issues of this case.

536] Q. Did you buy from Don Gray at any other time, Mr. Mathis? A. No, sir, not after I quit.

Mr. Crawford: I have no further questions.

Mr. Ungerman: No questions.

The Court: That's all.

ARCHIE MOORE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Archie Moore? A. Yes, sir.
Q. Mr. Moore, do you know the defendant Don Gray? A. I have met him, sir.
Q. Have you ever purchased liquors from him? A. Yes, sir.
Q. Do you recall when the first time was that you purchased liquors from him? A. It was in the latter part of '51, sir.
Q. Latter part of '51.

Mr. Crawford: If the Court please, that would be within the proper time.

Q. (By Mr. Crawford) For how long a time did you buy
537] from him? A. A short while, sir, about six or seven different occasions.

Q. And about how much would you buy on each occasion? A. The first time was six cases. After that I think was somewheres in the neighborhood of eight to ten cases.

Q. And from which store did you make these purchases? A. It was Don Gray's store, and it was just out on the road there, that you go off to Baxter Springs, at I don't recall just exactly where it was located, sir.

Q. Did you normally call Mr. Gray before you arrived at his location? A. No, sir, I went up there, taking another boy with me, and we went to his store to make our inquiry and he asked me how soon I would need some and I said, I need it today, and he said, he told me to come back about 5 o'clock that evening, so at 5 o'clock we went back and he had it ready.

Q. And in what condition was it when you went back, was it lugged or was it in open cases? A. Well, it was lugged and I believe he had it in the back of his car, and he went up on a hillside, by the side of a little house, on the hill, and unloaded it.

Q. Unloaded it from his car to yours? A. Yes.

Q. Was this in a secluded place? A. Yes.

538] Q. Now, did you tell Mr. Gray where you were from?

A. Yes.

The Court: What did you tell him; where did you tell him you were from?

A. I told him I was from Tulsa, and the business I was in.

The Court: What did you tell him, what business did you tell him?

A. I told him I was in the retail liquor whisky business and I told him that I wanted it for resale here in Oklahoma.

Q. (By Mr. Crawford) Did Mr. Gray ever call you from Missouri to Tulsa? A. Yes, sir.

Q. And did you have any further arrangement whereby he would call you? A. Yes, sir.

Q. And what was that arrangement? A. The arrangement was that he would call me on a such a day of each week and I would turn in my order, of what I needed and then the following afternoon the boy would go up there and pick it up.

The Court: Well, you say, the boy would go up there.

A. The boy that worked for me.

The Court: To whom do you refer?

A. The boy that worked with me in the whisky business.

539] Q. (By Mr. Crawford) Did you have a man driving for you by the name of Bill Curtis? A. Yes, sir.
Q. He made trips to Don Gray's for you, is that right? A. Yes, sir.

Mr. Crawford: You may inquire

Cross-examination by Mr. Shortridge

Q. Mr. Moore, you had a retail liquor dealers stamp I believe you testified before, when you were on the stand, didn't you? A. Yes, sir.
Q. Now are you sure that this purchase -- these purchases on six or seven occasions were during 1951 or 1950? A. It was 1951, sir.
Q. How do you know that? A. Well, I purchased a '51 Oldsmobile in the early part of '51 and it was quite sometime later than when I had made the purchase of the Oldsmobile.
Q. It might have been -- of course you could have bought a '51 Oldsmobile at any time from October of '50 on, couldn't you? A. Yes, sir, I bought it in March of '51.
Q. And these purchases might have been within a month after that, might they not? A. No, sir.
Q. Are you Archie Vernon Moore? A. Yes, sir.
540] You are an army deserter, are you not? A. Yes, sir.
Q. Were you ever tried for -- A. What is that?

Mr. Crawford: If the Court please, we object to that line of questioning.

The Court: I will sustain the objection unless he has been convicted.

Q. (By Mr. Shortridge) Were you ever convicted? A. I have an honorable discharge, sir.

Q. Were you ever given a dishonorable discharge, suspended -- A. No, sir.

Q. Were you ever convicted by a General Courts Martial? A. I was absent without leave, yes, sir.

Q. Were you convicted of desertion and given a suspended dishonorable discharged from the United States Army? A. No, sir, I didn't receive any dishonorable discharge.

Q. Were you given a --

Mr. Crawford: If the Court please, we object to this entire line of questioning the man has answered the question several times.

The Court: I will sustain the objection; he has
541] answered your question.

Q. (By Mr. Shortridge) What were you tried for? A. Absent without leave, sir.

Mr. Crawford: We move that that be sticken also, Your Honor.

The Court: Overruled.

Mr. Crawford: As I understood -- may I approach the Bench? As I understood the Court's instructions at the beginning, that the defense counsel be permitted to question with regard to liquor violations. This man is now being questioned in regard to matters he was tried on --

The Court: His answers didn't hurt him any; I will overrule your objection; I don't attach any importance to it.

Mr. Crawford: I am thinking more --

Mr. Shortridge: Did he have any offense involving moral turpitude?

The Court: That's right. Of course you didn't ask the question in the proper way.

Mr. Shortridge: Yes, sir.

The Court: But at the same time I don't think his answer

hurt the witness any so I overrule the objection; he explained what occurred.

Q. (By Mr. Shortridge) Were you ever tried for armed robbery?

The Court: That is not a proper question either.

542] Q. (By Mr. Shortridge) Were you ever convicted of armed robbery?

The Court: Just a minute -- just a minute; two or three of these matters can be overlooked as inadvertent, but after that it appears to be deliberate; you can ask him about any conviction.

A. I wasn't.

The Court: A great many people are tried and acquitted and exonerated and you are not entitled to bring out on cross-examination any charged that were not substantiated; that applies to the Government as well as to the defense; witnesses are entitled to that much protection.

Mr. Shortridge: I understand that, Your Honor. I will not pursue that further; I was going upon the department of public safety rap sheet here.

The Court: You may ask him any question that is proper.

Mr. Shortridge: I don't know whether it is complete or not.

The Witness: I would like to say that I was not convicted for armed robbery.

Mr. Malloy: May I ask him a couple of questions?

Cross-examination by Mr. Malloy

Q. Mr. Moore, directing your attention again to the
543] period of time 1950 to '51, you said that you were in business; were you in business for yourself then, Archie, or by yourself, or what? A. Yes, sir.

Q. Which one -- maybe I asked you a double-barreled question; were you by yourself? A. Yes, sir.

Q. You had this boy working for you by the name of Curtis? A. Bill Curtis.

Q. Was that during the period in which you were a partner of Buck O'Brien? A. No, sir.

Q. Was that earlier or later? A. Much earlier.

Q. You didn't have any partner at all at this time that you are referring to? A. No, sir.

Q. Is that right? A. No, sir.

Q. You of course don't know about this boy Curtis, where he went, do you, that is, you didn't go with him when he went to get a load of whisky, you didn't go with him? A. No, sir.

Mr. Malloy: That's all.

544] Redirect Examination by Mr. Crawford

Q. But you did receive calls from Don Gray prior to the time you sent him, is that right?

Mr. Rucker: Objected to as repetition and leading and suggestive.

A. Yes, sir.

The Court: Sustained as repetition.

Mr. Crawford: That's all. You may be excused.

BONNIE DODSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Bonnie Dodson.

Q. Do you know a man by the name of Bill Curtis?

The Court: Repeat the name, please.

A. Bonnie Dodson.

Q. (By Mr. Crawford) Do you know a man by the name of Bill Curtis? A. Yes, sir.

Q. Did you ever take a trip with him to Missouri? A. Yes, sir.

Q. Did you go to Don Gray's? A. Yes, we did.

545] Q. What did he get at Don Gray's? A. A load of whisky.

Mr. Ungerman: We object to counsel leading the witness, if Your Honor please.

The Court: Overruled.

Q. (By Mr. Crawford) You may answer the question, Miss Dodson. A. A load of whisky.

Q. Did he return to Oklahoma with it? A. Yes.

Q. Do you recall the year that it was? A. No, I don't; it was somewhere between '50 and '53, I would say.

Mr. Crawford: That's all.

Mr. Ungerman: Move that the testimony of the witness be stricken for the reason it apparently comes within the period of time that there was no prohibition against importation of liquor.

The Court: Objection overruled; that is for the jury to determine in view of the testimony of the preceding witness, he started making his purchases late in 1951; it will be for the jury to determine whether this specific instance referred to by the witness occurred during the two-year period that whisky might be properly imported into Oklahoma as far as Federal law was concerned, or at a later time.

546] Mr. Malloy: May I ask a question.

Cross-examination by Mr. Malloy

Q. This occasion of your visit to Missouri, or your alleged visit, was during the period between '50 and '53? A. Yes.

Q. That covers a three-year period. A. Well, I could bring it down closer than that; I would say it was around in '52.

Q. In '52? A. It began probably in '52.

Q. It wouldn't be '51, would it? A. I don't believe so.

Mr. Malloy: That's all.

Mr. Crawford: I have no further questions.

ROBERT BATES, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Bob Bates? A. Yes, sir.

Q. Mr. Bates, have you ever purchased any liquor from
547] Don Gray? A. Yes, sir.

Q. Now, Mr. Bates, you testified earlier, if I may recall this, for a predicate, that you had been engaged in the liquor business for a period of several years? A. Yes, sir.

Q. You were aware were you not when the Court decision came down invalidating the enabling act in Oklahoma? A. I don't understand what you mean there.

Q. Well, you remember back in the day when people were importing whisky into Oklahoma around 1950, 1951 and '52, that a Court decision invalidated a law making it a Federal violation to bring whisky into Oklahoma? A. Yes, sir.

Q. And that was pretty common knowledge among the liquor dealers, was it not? A. Yes, sir.

Q. More or less open season, until the law could be put back in effect? A. Yes, sir.

Q. Now did you ever buy any liquor from Don Gray at a time when it was against the law to import into Oklahoma?

Mr. Ungerman: We object to that, if the Court please, calling for a conclusion.

The Court: Overruled.

548] A. Do you mean by that question --

Q. (By Mr. Crawford) I mean, if I may help you by that question, did you ever buy any liquor from Don Gray before or after the enabling act was invalidated.

Mr. Ungerman: We object to counsel's leading and suggesting an answer to this witness.

The Court: Objection overruled.

A. After --
Q. Afterwards, and about how many purchases did you make from Don Gray afterwards? A. Six or seven.
Q. And Mr. Bates, approximately how many cases did you buy with each purchase? A. From twelve to fifteen or sixteen.
Q. And then you imported that or brought it back into Oklahoma, is that right? A. Well, should I answer that question?

The Court: Yes

A. Yes, I did.
Q. (By Mr. Crawford) All right now, Mr. Bates, did you call Don Gray before you went up on those trips or did he call you? A. I just went up.
Q. You just went up? A. Yes, sir.
549] Q. Did you tell him where you were from? A. I don't think I did; he knew where I was from.
Q. Did you tell him what your business was? A. Oh, yes.
Q. And did you ever change the license plates on your car? A. Not that I remember of.
Q. In other words, you had your Oklahoma plate on the car, is that right? A. Yes, sir.
Q. And when you obtained the merchandise from Don Gray was it in open cases or lugs? A. It was always wrapped.
Q. And where did you meet Mr. Gray or one of his employees, to make the transfer? A. I didn't meet any of them; I just went to the store and got it.
Q. You went to his store and picked it up there, is that right? A. Yes, sir.
Q. Was the transfer made in an enclosed area there by the store? A. In the back end of the store, this building there.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Ungerman

550] Q. Mr. Bates, when did you go up to Don Gray's liquor store and make any purchase from that store? A. I think about

1950.

Q. All right now, when was the next time? A. All of this in a period of two weeks.

Q. All the dealings you had with Don Gray was in a period of two weeks during the year 1950, isn't that true? A. Approximately.

Q. No other time? A. No.

Mr. Ungerman: We move that the testimony of the witness be stricken for the reason that the testimony of the witness affirmatively shows that any purchases made were made within a period of time when it was not an offense against the laws of the United States to import liquor from Missouri into the State of Oklahoma.

The Court: Do you care to ask any other questions?

Mr. Crawford: Yes, sir, I do.

Redirect Examination by Mr. Crawford

Q. You testified earlier, Mr. Bates, that you recalled very definitely when this enabling act was invalidated, is that right?

The Court: He doesn't --

Mr. Ungerman: We object to that, if Your Honor please; he is not a lawyer; half of the lawyers don't know that.

551]

Mr. Crawford: It is more important to him than a lawyer.

The Court: Just a minute, you will have to put it a little differently.

Mr. Bates, there was a period of two years commencing on May 13, 1949, and ending April 5, 1951, during which the Oklahoma law had been amended in such a way that it was not a violation of Federal law to transport liquor from a wet state into the State of Oklahoma. And I believe that is what the -- the circumstance you testified that you were familiar with, is that correct?

A. Yes, sir, but I can't remember the date exactly.

The Court: You don't remember the date exactly; well, I am telling you that that was the date.

A. Well, yes, sir.

The Court: May 13, 1949 until April 5, 1951.

A. Yes, sir.

The Court: Now you have testified that it was your recollection that you bought -- you had these whisky transactions with Gray --

A Yes, sir

The Court: -- at a time when it was against Federal Law to transport liquor into Oklahoma.

A Yes, sir

552] The Court: Then upon cross-examination you told counsel that you made these purchases during the period of six weeks, in the year 1950?

A In about two weeks, sir; and I thought it was about 1950.

The Court: Well, now, if it was in 1950 of course it occurred at a time when it wasn't against Federal Law to transport whisky into Oklahoma. Is it your opinion that the transactions you had with Gray occurred in 1950 at a time when it wasn't illegal to transport into Oklahoma, that is as far as Federal Law was concerned.

A. No, sir, it was against the Federal Law, because I used to get whisky from Cairo, Illinois, all the time that we were legally allowed to bring it in here.

The Court: Then your testimony is, -- I was under the impression that at the time you bought from Gray --

A. Sir.

The Court: That at the time you bought from Gray it was against Federal Law to transport into Oklahoma?

A. Yes, sir.

The Court: And if, as I have stated, it wasn't against Federal Law in 1950, you were mistaken about the year, is that right?

A. Yes, sir, that's right.

The Court: All right.

553] Q. (By Mr. Ungerman) How did you fix the year 1950 when I asked you the question on cross-examination? A. I just thought it was about then.

Q. Well, did you buy whisky in Cairo, Illinois, before you bought whisky in Missouri? A. Quite sometime before.

Q. And then you transported it through Missouri into Oklahoma? Q. Quite sometime before that, yes.

Q. How much longer before? A. Oh, a couple of years -- close to it.

Q. Well, how many years --

The Court: He said a couple of years.

A. Close to it.

Q. What kind of a car were you driving when you made these purchases from Don Gray? A. A '41 Chrysler.

Q. A '41 Chrysler; when did you dispose of that car? A. The car actually belonged to another man and I was with him when we went after this stuff.

Q. All right, who was the man with you and whose car was it? A. Peewee Lawson.

Q. Peewee Lawson's car? Do you know when that car was disposed of? A. He probably does; I don't.

Q. Was this about the same time that you testified earlier
554] that you were paying money to a fellow named Cecil Ray?

A. No, it was quite a little later than that.

Q. How much later? A. A couple of years -- close to it.

Q. You tell us that you just went up there and made the ordinary purchases right out of the store, took your packages and came on back, is that right? A. That's right.

Q. No secret meeting place, or any advance notice or anything of the kind? A. Not that I remember of.

Mr. Ungerman: That's all.

The Court: Is that all of the cross-examination?

Mr. Crawford: I have no further questions, Your Honor.

The Court: That's all.

555] HERSCHEL MATHIS, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Now, Mr. Mathis, you were in the liquor business back between about '48 up through '50, '52 and '53, were you not? A. Yes, sir.

Q. May I ask you this: Do you recall when it was against the Federal Law to import liquors into Oklahoma because of a Court decision? A. Yes, sir.

Q. And where did you buy your liquors from during that period of time? A. Cairo, Illinois, and Fort Smith, Arkansas.

Q. Did you buy any from Don Gray during that time? A. No, sir.

Q. Well, then, if the law was such, because of a Court decision, that it wasn't against the Federal Law from April 13, 1949, -- or May 13, 1949 until April 5, '51, then the time you bought from Don Gray was either before or after that, was it not? A. I would say it was in between there. In other words, when they shut the wholesale export whisky off was the latter part of '49, if I'm not mistaken.

Q. What do you mean by shutting off the export whisky?

556] A. Well, they shut off the export -- export whisky means that a lot of tax wasn't concerned there, like Missouri whisky; it has a state stamp on it, and the tax; and that export whisky is a Federal tax, and all that on it, but it doesn't have something like $8 a case tax that they had on it up in Missouri, some way or other.

Q. Well, my point is this, Mr Mathis: Because of a Court decision it wasn't against the Federal law to import liquor into Oklahoma from May 13, 1949 until April 4, 1951; in that period you were not violating Federal Law by bringing whisky into Oklahoma; do you understand that? A. Yes, sir.

Q. All right now, when you previously testified you said you thought you bought from Don Gray in 1950, which would fall in between that period when it wasn't a violation of the Federal Law to import into Oklahoma. A. Well, I think that's right, yes, sir.

Q. Well, sir, when you just testified you said you did not buy from Don Gray when it wasn't a violation of the Federal Law to import into Oklahoma; and I am trying to establish the date more accurately in your mind with regard to when you purchased from Don Gray. A. I am sure it was in '50.

Q. You are positive of that? A. Well, I wouldn't be positive of that now but I am --

557] The Court: All right, that's all.

Mr. Crawford: All right, that's all; you can step down.

JOHN BILL EDWARDS, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Bill Edwards? A. Yes, sir.

Q. Mr. Edwards, do you know the defendant Don Gray? A. Yes, sir.

Q. Have you ever purchased liquor from Don Gray after April 5, 1951? A. Yes, sir.

Q. And when did you purchase that liquor? A. I started trading with Don Gray in February of 1953 and I have traded with him continuously up until November of 1956.

Q. All right now, Mr. Edwards, when you made these purchases from Mr. Gray how would you arrange for the meeting? A. I would call him before I left the --

Q. You would call him from Tulsa? A. Yes, sir.

558] Q. And did you have any particular place that you would meet him? A. Several different places out in the country.

Q. Always out in the country? A. Well, all but a very few times.

Q. And when you met him out in the country why the merchandise would be lugged, is that right? A. That's right.

Q. Did Mr. Gray ever come to Tulsa to see you. A. Yes, sir.

Q. Now when was that occasion? A. Well, let's see, it was either September or October, he has been to Tulsa to see me several times, but this particular time he came to see me and nobody else, was either in September or October of 1956.

Q. And did you have a conversation with him at that time? A. Yes, sir.

Q. And would you relate that conversation to the jury to the best of your recollection. A. Well, the last trip I hauled from Don I told him I was going to quit trading with him and he wanted to know why, and I told him because he was selling Martin Edwards. So when I left up there why I said, I am through, I won't be back. And the next day he came down to my house and all but got down on his knees and begged me to come back and trade with him.

559] Mr. Malloy: Object to that, if Your Honor please, this down on your knees business, just testify to what happened.

The Court: You will have to permit me to admonish the witness.

Mr. Malloy: I'm sorry; I object to the answer as not responsive to the question.

The Court: Well, you added a little too much description there, Mr. Edwards; just answer the question. Now you were asked to relate the conversation, so confine your answer to the question.

The Witness: All right, sir, he begged me to come back and trade with him, and I did.

Q. (By Mr Crawford) You did after that? A. On his promise that he wouldn't seel Martin any more.

Q. During the time that you were purchasing from Don Gray approximately how many cases did you bring back each time? A. Oh, fifty to sixty.

Q. And that would, and that would -- would come in about one car, is that right? A. Yes, sir.

Q. Is that about the maximum that a man can transport in one car? A. Well, that's a real good load.

Q. And in order to do that is it necessary to remove any 560] part of the interior of the car, such as a seat? A You

have to remove the back seat.

Q. And did you have any special equipment on your car, such as switch-off lights, when you were transporting?
A Had switch-off lights, over-load springs, and big tires.

Q. Now, -- when you called Mr. Gray or he called you to arrange for these meetings, where you would pick up the merchandise, the liquor, did you say specifically on the phone where the meeting place was to be? A. Yes, sir.

Q. And then that is the only contact you would have with him until you arrived there, is that correct? A. That's right.

Q. Did you usually arrange for the transfer during the day time or at night time? A. Sometimes in day time, sometimes at night.

Q. Did you ever discuss with Mr. Gray the fact that when you were bringing this liquor to Oklahoma you were reselling it to other liquor dealers? A. Well, I -- I suppose I did.

Mr. Shortridge: We object to what the witness supposes, what he did.

The Court: Do you know whether you did or not?

561] A. Well, I know that we talked about it.

Q. (By Mr. Crawford) Now, Mr. Edwards, do you recall when a man by the name of Carl Harp was stopped bringing in a certain amount of liquor into Oklahoma? A. Yes, sir.

Q. Would you by any chance recall the telephone conversation from Don Gray to you about that date? A. No, I can't pinpoint that date but he called me several times.

Q. At your home here in Tulsa? A. Yes, sir.

Mr. Crawford: You may inquire.

Mr. Malloy: Let me ask Mr. Crawford, this witness will be back, won't he?

Mr. Crawford: Yes, that's right.

Mr. Malloy: That's all.

Cross-examination by Mr. Shortridge

Q. Mr. Edwards, are you still in the whisky business.
A. No, sir.

Q. You have quit it? A. Sir?
Q. You have quit it? A. That's right, temporarily.
Q. Is it your intention to go back in the whisky business? A. Well, I don't know whether I will or not; it is not definite.
562] Q. When you say, temporarily, you mean you are not going back in the whisky business? A. I wouldn't say that I would, I am not in the whisky business now.
Q. Are you just out of the whisky business during the course of this trial? A. I have been out of the whisky business a long time.
Q. At least a long time, was November 1956 you were in the whisky business? A. Yes, sir, I hauled a few loads in, temporary, just fill-ins, for another fellow. I bought continuously from Don Gray from '53 until November of '56.
Q. Have you ever been arrested? A. Yes, sir, a lot of times.

Mr. Crawford: If the Court please, I object to the question --

Q. (By Mr. Shortridge) Have you ever been convicted -- I beg your pardon.

Mr Crawford: Of what?

Q. (By Mr Shortridge) Have you ever been convicted of any liquor offense; I believe I will withhold any further questioning on that, Your Honor.

Mr. Crawford: Just one further question.

563] Redirect Examination by Mr Crawford

Q. Mr. Edwards, approximately how many trips were you making to Don Gray's for liquor during the period you were buying from him, how many trips per week? A. I couldn't tell you; some weeks two, some weeks three, some weeks one; it was according to how business was.
Q. That will be all, thank you.

Mr Crawford: You may be excused.

Mr. Shortridge: One more question.

Cross examination by Mr. Shortridge

Q. During that period of time you have testified about you were in business for yourself, were you not? A. Yes, sir.
Q. You had no connection with anybody else? A. No, sir.
Q. No agreement with anybody else. And where did you unload your whisky? A. In Oklahoma.
Q. Whereabouts? A. I don't think -- you need to know.

Mr. Crawford: I don't think that is material, Your Honor.

Q. (By Mr. Shortridge) Is that a trade secret? A. Sir?
Q. Is that a trade secret? A. It sure is.
564]
Mr. Hickman: I think it is competent to ask a witness where his trips of whisky, from Missouri --

The Court: You should answer the question.

A. Sir?

The Court: You should answer the question.

Mr. Crawford: If the Court please, is it sufficient to answer it to the county, to the city?

The Court: I said he should answer the question.

A. What was the question again?

The Court: Where did you unload the whisky that you brought from Missouri into Oklahoma?

A. Tulsa County.

Cross-examination by Mr. Hickman

Q. In the City of Tulsa or out in the county? A. Out in the county.

Q. You didn't bring it within the city limits when you unloaded it? A. You mean directly from Missouri?
Q. Yes, sir. A. No, sir.

Mr. Hickman: That's all.

Mr Crawford: That's all.

565] JAMES A. JOHNSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Would you state your name, please, sir. A. James A. Johnson.
Q. Mr. Johnson, you at one time worked for Don Gray, did you not? A. Yes, sir.
Q. And at what liquor store? A. Well, I worked at Anderson and at Opolis.
Q. And for how long a period, Mr. Johnson, did you work for Don Gray? A Well, I worked part of '52 and part of '53, and a small part of '54.
Q. Do you recall which store you worked for him at in 1954? A. Opolis.
Q. Near Opolis, Kansas? A. Yes, sir.
Q. Now, were there many people purchasing from Mr. Gray at that period of time in 1954? A. Well, yes, quite a few.
Q. Were any of those customers from Oklahoma? A. I couldn't swear positively that they were; I don't know.
Q. Well, did any of them drive cars that had Oklahoma
566] license plates? A. Yes, sir.
Q. Where were the transfers of liquor from, Mr. Johnson, when Mr. Gray would deliver the merchandise? A. They were made at various places.
Q. They weren't made at the store? A. Not all of them, no.
Q. Were any of them made out in the country? A. Yes, sir
Q. Would you explain to the jury what would be done there at the store tnat Mr Gray owned, before the transfer would be made, regarding the merchandise. A. It was wrapped in packages.

Q. Packages or lugs? A. Yes, sir.
Q. Was it then loaded into an automobile? A. Yes, sir.
Q. Then driven from the store to a predesignated location, is that right? A. Yes, sir.

Mr. Gotcher: We object to that; let the witness testify, not Mr. District Attorney; he is just leading him over the courtroom.

567] The Court: I customarily permit a reasonable amount of leading. You will be accorded the same privilege, to save some time and I don't think it is particularly objectionable unless it appears that the form of the question might induce a different answer from what could be expected otherwise. I will overrule the objection.

Mr. Gotcher: Thank you, Your Honor.

Q. (By Mr. Crawford) Do you recall the names of any of those customers -- so-called customers from Oklahoma, Mr. Johnson. A. I never knew but very few of them.
Q. Well, do you remember one named Lefty? A. Yes, sir.
Q. Do you remember one named Bill? A. No, sir.
Q. One named Martin? A. I don't believe I know any Martin.
Q. Do you remember having a conversation with the defendant Don Gray about Fred A. Griffing or Little Griff? A. Yes, sir.
Q. Would you relate the circumstances surrounding that conversation to the jury, please? A. Why he just told me that Little Griff called him on the phone and wanted to do some business with him.
Q. When was that conversation if you recall? A. It was '52, I think.
568] Q. Now, when the meetings would take place, Mr. Johnson, to transfer the liquor from Mr. Gray to the Oklahoma customer would the liquor be paid for at that time? A. Yes, sir.
Q. Was it usually paid in cash? A. Yes, sir, that's the only way I ever seen it transacted.
Q. That's the only way you ever saw it? A. Yes, sir.
Q. Now, when these transfers were made out in the country of the lugged liquor, would it be transferred rather rapidly or would people just casually move it from one car to the other?

Mr. Ungerman: Object to that as calling for a conclusion.

The Court: I will sustain the objection; it is somewhat immaterial.

Q. (By Mr. Crawford) Were there any regular places, Mr. Johnson, where the liquor would normally be transferred?
A. No, it was changed at various places.
Q. Would the transfer of the lugged liquor to the so-called Oklahoma customers involve as many as fifteen or twenty or forty cases at a time? A. They did at times, yes.
Q. Do you have any recollection, Mr. Johnson, in the year 1954 with regard to the percentage of merchandise -- the approximate percentage of merchandise that Mr. Gray was
569] selling to the Oklahoma customers? A. No, I wouldn't know.
Q. Would you say that the Oklahoma customers constituted more or less than his over-all customers --

Mr. Malloy: Object to the form as leading.

The Court: Sustained. I will sustain it on the ground that it obviously calls for a conclusion and an expression of opinion. His previous answer indicated that he doesn't have enough information to give us a reliable answer.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Malloy

Q. Mr. Johnson, in 1952 you say you overheard Mr. Gray talk on the telephone to someone by the name of what? A. Oh, I didn't say I overheard him talking on the phone; Mr. Gray told me he talked on the phone.
Q. He said he talked to someone on the phone? A. Yes, sir.
Q. You didn't know who that person was, did you?
A. No, sir, I didn't know only what he said.

Mr. Malloy: That's all.

* * * * *

570] RALPH R. LASHBROOK, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Lashbrook, when you previously testified I asked you to point out Don Gray, did I not? A. Yes, sir.
Q. You never did see him did you? A. No, sir.
Q. Do you see him in the courtroom now? A. I do.
Q. Where is he?

Mr. Shortridge: If Your Honor please, this morning when he testified he went over and picked out a man.

Mr. Crawford: No he didn't.

A. I said that's not Don Gray, I walked back to my chair.

Mr. Shortridge: I challenge the record on his testimony.

Mr. Crawford: Well, am I able to question the witness or not?
Has there been an objection made?

The Court: You may proceed with your interrogation of the witness. It may be considered as an objection and overruled.
571]
Q. (By Mr. Crawford) Where is he now, Mr. Lashbrook? A. He is the third man back there in the fourth or fifth row, this way.
Q. Did you ever see the defendant among the -- beyond the rail this morning? A. I haven't.

Mr. Crawford: If the Court please, I think it might be appropriate to suggest that the defendant be sitting inside of the rail rather than in the back of the courtroom so that they can be seen by the witness.

The Court: I don't think it is necessary.

Mr. Crawford: Well now when I pointed out a man to you over there --

The Court: I think we are making a mountain out of a mole hill. The testimony Mr. Lashbrook was of very little materiality in the case, and whether he can identify Gray or cannot identify him is of no real consequence in my judgment.

Mr. Crawford: Well, you may be excused.

The Court: I suggest we just move on to something else.

Mr. Crawford: All right.

572] LAWRENCE HAMILTON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Lawrence Hamilton.
Q. Mr. Hamilton, do you know the defendant Martin Edwards. A. Yes, sir.
Q. Have you ever worked for him? A. Yes, sir.
Q. When did you first work for him? A. In 1951.
Q. And how long a period of time did you work for him from 1951? A. Well, to '53.
Q. All right, during that time do you know where Martin was buying his whisky? A. Yes, sir.
Q. Where was that? A. Well, he started in Cairo.
Q. Where did you go from Cairo? A. To Missouri
Q. Did you ever make any trips up to Missouri? A. Yes, sir.
Q. For Martin Edwards? A. Yes, sir.
573] Q. And about how many trips did you make? A. Oh, I couldn't say, once or twice a week.
Q. About how many cases would you bring back each trip? A. Oh, forty or fifty.
Q. Now, did anybody go with you when you made these trips to Missouri? A. No, sir.
Q. Do you recall approximately whereabouts in Missouri you went? A. Well, Joplin -- I never did go right in the town of Joplin.
Q. Did you meet somebody out in the country near Joplin? A. Yes, sir.

Q. How did you know who to meet, or where to meet? A. Well, I knew where to go; we had that all arranged.
Q. Well, did Martin tell you where to go? A. Yes, sir.
Q. When you arrived in the country would the liquor be lugged, or in open cases? A. Well, lugged.
Q. All right. Then you would bring it back here to Tulsa, is that correct? A. Yes, sir.
Q. Now, when you made these trips to Joplin or near
574] Joplin, for Martin Edwards, did you take the money to pay for it? A. Yes, sir.
Q. Did you take it by cash or check? A. Cash.
Q. You delivered that to the man that you bought the merchandise from? A. Yes, sir.
Q. Do you know who you delivered the money to? A. Yes, sir.
Q. Who was that? A. Lloyd Lewellen.

Mr. Shortridge: We move the witness' answer be stricken; Lewellen isn't named as one of the defendants, or one of the co-conspirators -- beyond the issues.

The Court: The mortion is overruled.
What was that name again; I didn't understand it.

A. Lloyd Lewellen.

Mr. Crawford: You may inquire.

Mr. Hickman: Well, on behalf of the defendants I move that this evidence be stricken on the ground that it is incompetent, irrelevant and immaterial.

Mr. Crawford: May I answer that?
If the Court please, the evidence is directed against Martin Edwards, who is a defendant, showing he imported whisky into Oklahoma; it is as material as it can be.
575]

Mr. Hickman: Then I would move on behalf of the defendant Don Gray that the Court admonish the jury that that evidence cannot be considered against him.

The Court: Of course, I covered that subject matter on two different occasions. The jury may well be instructed later

in that connection. I don't think it is necessary to advise the jury further at this time.

Any cross-examination of the witness?

Mr. Malloy: Just a minute. Mr. -- have you got that thing on there, Larry?

Cross-examination by Mr. Malloy

Q. How long have you been in the whisky business? A. '51 to '53.

Q. Is that the only time you have been in there? A. No, when I came back out of Springfield I was back in it.

Q. In other words, you have been convicted have you not? A. Yes, sir.

Q. Of whisky violations? A. Yes, sir.

Q. Been convicted on more than one occasion, haven't you, Larry? A. Transportation -- transporting.

Q. Transportation but at least two convictions? A. No, 576] just one -- oh, yes, --

Q. You have been convicted twice, haven't you? A. Yes.

Q. Spent time in the penitentiary, is that right? A. Yes, sir.

Q. Have you ever been convicted of burglary? A. Yes, sir.

Q. And served time on that? A. Yes, sir.

Q. Are you in the whisky business now, Larry? A. No, sir.

Q. How long has it been since you have not been in the whisky business? A. Last week, when I got thirty days in jail.

Is that all?

577] MRS. LULU ANDERSON, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mrs. Anderson, you have previously testified and have been sworn, is that correct? A. Yes, sir.

Q. Do you know the defendant Fred A. Griffing? A. I do.

Q. Have you ever worked for him? A. I have.

Q. And in what capacity did you work for him? A. I

worked his telephone.

Q. And by that you mean you took calls to his phone? A. Right.

Q. For liquor sales? A. Right.

Q. And at what address did you do that? A. 5602 East 31st.

Q. And for how long a period of time did you work for him? A. Well, from March of '56 to January of '57.

Q. And how much did he pay you per week to do that work? A. $35 a week.

Q. And did he ever store any liquor there at the address where you took the telephone calls? A. Occasionally.

Q. And where would it be stored -- in the house or out-
578] side of the house? A. Well, sometimes it was the garage and sometimes it was in the house.

Q. Was there a room between the garage and the house or did he actually store it in the garage? Q. It was sometimes in the garage and it was sometimes in the house.

Q. Uh huh. A. In the kitchen.

Q. Did you ever see Martin Edwards out at the house? A. Yes, sir.

Q. About how often did he come out? A. Well, approximately three or four times a week.

Q. What did he come out to the house for?

Mr. Malloy: That calls for a conclusion, if Your Honor please.

The Court: Sustained.

Mr. Crawford: I will withdraw the question.

Q. (By Mr. Crawford) What did he do when he came out to the house? A. I would see Martin sitting in there at the table talking.

Q. To Griff? A. Right.

579] Q. Did you ever hear any of their conversations?

A. Sometimes I would; sometimes I didn't pay any attention to them.

Q. Did you ever hear them talking about whisky operations? A. Just about their operation.

Q. What did they say about their operation? A. Oh, how many cases they were selling, this, that and the other, what their prices were.

Q. All right, did Griff make trips out of town during the time you worked for him? A. Yes, sir.

Q. And do you know where he went? A. No, sir.

Q. When he left did he take anyone with him? A. No, sir.

Q. Did he take anything with him besides the car? A. Not that I know of.

Q. And when he came back did he have any one with him? A. Not that I know of.

Q. Did he have anything with him when he came back? A. Whisky, I presume.

Q. What do you mean, presume? Were there lugs in the car or what? A. Yes, sir.

Q. And would he then unload the car into the house or
580] into the garage? A. No, Griff never unloaded the cars at the house.

Q. Well, he did unload some whisky at the house, did he not? A. Just his orders.

Q. His orders? A. Uh huh.

Q. This would be the ones that you took telephone calls, is that right? A. That's right.

Q. Would there be as many as ten or twelve cases of whisky there at the house?

Mr. Malloy: That is leading and suggestive and definitely not within the issues of this case and certainly --

The Court: Sustained.

Q. (By Mr. Crawford) Did he ver have whisky there at the house? A. I don't know what you mean.

The Court: How much whisky did he have there at the house on various occasions, if you know?

A. Approximately four or five cases at a time.

Q. (By Mr. Crawford) And that was used then for your telephone calls, is that right? A. Right.

Q. Who else did he have working for him, Mrs. Anderson?
581] A. There was one Pete Miller. The other boys I don't know what their last names were.

Q. Do you know when Pete came to work for Griffing? A. No, sir, Pete was working for Griff when I went to work for him.

Q. How often would Griff make trips out of town while you were working for him? Q. Oh, it was for a long time that Griff didn't go out of town at all after I had gone to work for him.

Q. Well, when did he start going out of town? A. I would say shortly after school was out in '56.

Q. That would be about May of '56? A. Right.

Q. Then how often did he go out of town from then on? A. Approximately three or four times a week.

Q. Three or four times a week would you say? A. Right.

Q. And about how long would he be gone each time? A. Well, I don't really know because sometimes he wouldn't -- he wouldn't leave the house and make his direct trip, so I don't know how long he would be on his trip.

Q. Would it be a matter of hours? A. I imagine so, probably --

The Court: It seems to me that this evidence has very
582] little value.

A. Eight or nine hours.

Mr. Crawford: Your Honor, I do have a theory; I would be very happy to make it known.

The Court: Approach the Bench.

(Thereupon Mr. Crawford and Mr. Malloy conferred with the Court at the Bench and thereafter the following proceedings were had to-wit:)

Q. (By Mr. Crawford) Now, Mrs. Anderson, did Martin Edwards ever pay you any money? A. Yes, sir.

Q. Did he ever store any whisky in your house? A. Yes, sir.

Q. Did he pay you money for storing whisky in your house? A. Yes, sir, that's the reason he paid me money.

Q. Was that whisky brought in there by Griffing? A. Yes, sir.

Mr. Crawford: That's all.

Mr. Malloy: No questions.

Mr. Hickman: I want to ask one question.

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Cross-examination by Mr. Hickman

Q. You testified, Mrs. Anderson, that Griffing would never unload his load at the house but just his orders, am I correct? A. Right.

Q. Where would he unload his loads of whisky when he
583] would come back with it? A. At my house.

Q. Where did you live? A. I lived at 8603 East 16th Street.

Q. That was out in the county? A. Right.

Q. Out of the city limits? A. Right.

Mr. Hickman: That's all.

Mr. Crawford: That's all, Mrs. Anderson.

ALVIE D. MILLER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Would you state your name, please. Q. Alvie D. Miller.

Q. Are you sometimes known as Pete Miller? A. Yes, sir.

Q. Mr. Miller, one time you worked for Harry Miller, did you not? A. Yes, sir.

Q. He is no relation to you, is he? A. No, sir.
584] Q. Then more recently you worked for Fred A. Griffing, is that true? A. Yes, sir.

Q. What type of service did you perform for Fred A. Griffing? A. Delivering whisky.

Q. And for how long have you worked for Mr. Griffing? A. About three and a half years.

Q. That's the last three and a half years? A. Well, about '52 until about '54 or '55, and then I worked at the Conoco Station, 11th and Lewis, for about eight months.

Q. All right. Have you ever driven -- strike that, or I will withdraw that question.

The Court: One thing that is not clear, you worked for Griffing, '52, '54, '55; you worked for the Conoco Station eight months; what did you do after that?

A. I went back to work for Mr. Griffing.

The Court: All right, and continued to work for him for what period of time?

A. Up until now.

Q. (By Mr. Crawford) Do you know Martin Edwards? A. Yes, sir.

Q. Now, Mr. Miller, do you remember an occasion here back
585] last fall when Griffing's automobile broke down? A. Yes, sir.

Q. And how did you know that the car had broken down? A. He called me.

Q. And where were you at the time? A. At home.

Q. And where did the call come from? A. Chelsea.

Q. And what did he say to you when he called you on the phone there from Chelsea to your home? A. He said he needed another car.

Q. And did he ask you to come to Chelsea? A. Yes, sir.

Q. And did you go to Chelsea? A. Yes, sir.

Q. And what happened when you got to Chelsea? A. I just took him another car.

Q. Well, did you walk back or did you ride back or what? A. I rode back.

Q. Did you put anything in the car that you went up there to meet him in? A. Yes, sir.

Q. And what did you transfer from his car to the car you took? A. Whisky.

Q. Was it several cases or several lugs?
586]

Mr. Malloy: If Your Honor please, that is leading.

The Court: Well, objection overruled.

Mr. Malloy: Exception.

Q. You may answer the question then, how many cases or lugs did you transfer from the car he had to the car you had? A. About thirty-two.

Q. Thirty-two cases or thirty-two lugs? A. Thirty-two cases.

Q. And then you and Griff drove back in together, is that right? A. Yes, sir.

Q. Now, Mr. Miller, about how many trips -- strike that, please.

From about July of last year until December of last year about how many trips per week was Griffing making? A. I don't know.

Q. Well, was it as many as one a night? A. Well, I couldn't say, I wasn't with him.

Q. Well, you knew when he left and when he didn't leave, did you not; you were working for him? A. I never knew when he left.

Q. Well, you knew when he got back? A. Well, sometimes.

Q. Well, would you estimate that he made a trip as often
587] as four or five times a week? A. I don't know sir.

Q. But you do know that he was making trips out of town for whisky, do you not? A. Yes, sir.

Mr. Crawford: That's all.

Mr. Malloy: But you didn't know where he was going, did you?

A. No, sir.

Mr. Malloy: That's all.

Mr. Hickman: I want to ask you a question.

Cross-examination by Mr. Hickman

Q. Were you a delivery boy, what we call a pint pitcher? A. Yes, sir.

Q. And where would you usually go to get your supply to fill your orders that you got by phone? A. Well, I usually had it in my car.

Q. Where would you get it from to put in your car? A. Oh, usually some city street, he would meet me.

Q. He would meet you? A. Yes, sir.

Q. And secretly transfer it? A. Yes, sir.

Q. With the idea of being not detected by the police, is
588] that right? A. Yes, sir.

Mr. Hickman: That's all.

Mr. Malloy: Just one minute, Your Honor.

No questions.

The Court: That's all.

Mr. Crawford: That's all, Mr. Miller.

JACK EDWARDS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Jack Edwards? A. Yes.
Q. Jack, you are a brother of Martin Edwards and Bill Edwards, is that right? A. Yes.
Q. You also have another brother or two, is that correct? A. Right.
Q. Now, Jack, over a period of years you have been engaged in the retail liquor business, have you not? A. Right.
Q. And recently you have been associated with your brother Martin Edwards in that business, have you not? A. In a way.
589] Q. Well, in what way? A. I worked for him a couple of days.
Q. A couple of days only? A. About two or three days at the most.
Q. And where did you work for him? A. Out at a filling station, at Admiral and Rockford.
Q. What did you do at that filling station? A. I run the filling station and the whisky business.
Q. And what did your duties in running the whisky business for Martin consist of? A. Taking a few orders.
Q. And what did you do when you took these orders; did you take them by telephone? A. Yes.
Q. And who would then make the deliveries? A. Huh?
Q. Who would then make the deliveries? A. I made some deliveries.
Q. Did anybody else make the deliveries? A. No, I don't -- I don't believe so.
Q. All right, when was it that you worked for Martin as

you say; what was the approximate date? A. I believe it was in January sometime.

Q. January of 1957? A. I believe it was.

590] Q. Now was Martin in town at that time or had he gone out of town? A. No, he was out of town.

Q. Was that in the early part of January?

Mr. Malloy: Object to this as incompetent, irrelevant and immaterial.

The Court: I don't know whether it is or not but the objection is overruled.

Q. Was that in the early -- A. I really don't remember what part of January it was; it probably was.

Q. All right, where did you get the -- where did you get the liquor that you delivered for Martin when you worked for him? A. At the whisky plant.

Q. And how did the whisky plant get replenished? A. It was brought in.

Q. Who brought it in? A. Griff brought some in.

Q. All right and did you have a conversation there with Griff when he brought the whisky in? A. What kind of conversations?

Q. Well, did you talk to him? A. Oh, yes, I imagine I did.

Q. All right, did you talk to him about how much the

591] whisky cost? A. I don't remember whether I did or not.

Q. Did you talk to him with regard to how much he had paid the man he got it from? A. I don't believe so.

Q. Well, isn't it a fact that Martin told you he owed some money to the man he got the whisky from? A. I believe I knew that, yes.

Q. And isn't it a fact that Griff was paying back --

Mr. Malloy: Is the United States Attorney cross-examing his own witness; standing here with a copy of the --

The Court: That isn't my opinion, if you want my opinion.

Mr. Malloy: I would like to object because I think there is every evidence of attempting to cross-examine his own witness, standing here with a transcript of the grand jury proceedings,

directing questions to him, isn't it a fact -- in the tone and manner of a cross-examiner.

The Court: I am under the impression that the witness is a reluctant witness and under those circumstances a little more latitude is allowed for that reason. I will permit him to examine in the manner that he is.

Q. (By Mr Crawford) Now, when you took over Martin's business there, where did he say he was going? A. I don't recall that he said -- oh, you mean Martin?

592] Q. Yes. A. I think he told me he was going to Las Vegas.

Q. All right now, this liquor business of Martin's that you took over, was it a wholesale business or a retail business? A. Well, he had a retail license.

Q. My question is, was it a wholesale business or a retail business? A. Well, I sold it by the case.

Q. Uh huh. And did you sell it to other liquor dealers? A. Yes.

Q. And who were some of the other liquor dealers? A. Oh, I sold some to Ben Bly.

Q. All right, and who else? A. And Bill Massey.

Q. Did you sell any to Bill Monger? A. No, I don't believe I did.

Q. Now at the time that Martin left, you moved into his home, did you not? A. Yes.

Q. Were you familiar with his business prior to that time or did he have to explain to you his business at that time? A. I was fairly well familiar with it?

Q. Did you know then, being fairly well familiar with his business, who his other customers were? A. I don't suppose I knew them all, no.

593] Q. Well, how many more did you know? A. Oh, I think I knew some three or four.

Q. Well, who were those ones?

Mr. Malloy: I object to this as incompetent, irrelevant and immaterial.

The Court: Overruled; this is within the issues of the case.

Mr. Malloy: Well, unless he states -- directs his questions about someone in the conspiracy.

The Court: Well, it is quite material from other standpoints, too.

A. I think Slim -- I think I sold a little to Will Murray.
Q. How many cases at a time would you sell to Ben Bly? A. Oh, a case at a time, something like that.
Q. Did you ever sell any more than a case at a time? A. He has ordered more than that, yes.
Q. How many cases would he order? A. Oh, five or six.
Q. All right, how many cases at a time would you sell to Bill Massey? A. He ordered something about like that, too.
Q. Well, how many cases at a time did you sell him? A. A case and a half or two cases.
Q. Was liquor very difficult to obtain at that time?
594] A. Yes, it has been pretty rough for quite a while to get.
Q. And the primary sources that you would obtain it from, was this plant that Griff replenished, is that right? A. That's right.
Q. All right, how many cases would Griff bring in at a time when he replenished the plant? A. Oh, about -- about what I had orders for -- that's about all.
Q. Well, -- A. That might mean fifteen -- twelve -- twenty.
Q. All right, and during the time that you were working for Martin how many trips did Griff make, for you or Martin? A. A couple.
Q. He made a couple -- all right, by your own statement then he brought in somewhere between ten to forty or fifty cases? A. Yes, I guess so.
Q. All right and then you say he sold to Ben Bly; you have sold to Ben Bly about a case and a half at a time, is that right? A. Yes.

Mr. Malloy: That has been asked and answered.

Q. (By Mr. Crawford) How many times did you sell to Ben Bly? A. Oh, two or three times.
Q. Two or three times. All right, how many times did
595] you sell to Bill Massey? A. The same.
Q. You say you sold to a man named Murray? A. Yes, sir.
Q. How many times did you sell to him? A. Oh, a couple two or three.

Q. How many cases at a time would you sell to Murray? A. A case or so.

Q. A case or so; would he order more also? A. Sometimes, not very often.

Q. Now when Griff makes these trips does he usually leave in the day time or the night time? A. There is no specific time to leave.

Mr. Malloy: If Your Honor please, I want to object to this unless it is established that the witness knows where Griff is going.

The Court: I think his answer indicates that he didn't know what time he left. Of course it will have to be connected up in any event.

Q. (By Mr. Crawford) Now, when Martin left how long did he say he would probably be gone? A. I don't recall that he told me how long he would be gone.

Q. Did he not as a matter of fact say he would be back
596] in a week or so? A. He could have; I don't remember that he did.

Q. You mentioned this station that you also operated; what type of a station was that? A. Filling station.

Q. Did you run that as well as the liquor business? A. I tried to.

Q. Is that station located at Admiral Place and Rockford? A. Right.

Q. During this time that you were working for Martin, approximately how many times did you see F.A. Griffing? A. A couple or so, or something like that.

Q. Just a couple of times? A. Three or four.

Q. Did you have any other calls from any other liquor dealer during the time that you worked for Martin when he was gone -- to buy whisky -- any other calls from any other liquor dealer to buy whisky? A. I might have but I don't know.

Q. You don't remember any of them? A. No; I probably did, but --

Q. Well, actually then Martin's business as you have indicated was to sell to other liquor dealers, is that correct? A. I think it was.

597] Mr. Crawford: You may examine.

597] Cross-examination by Mr. Malloy

Q. Jack, in connection with your operations of the filling station in Martin's business during that brief time he was gone, you testified I believe that there was a whisky plant someplace where you would go to replenish and fulfill your orders? A. Right.

Q. And I believe you testified that Griffing made some trips somewhere? A. Yes, went after some whisky.

Q. Do you know where he went, Jack? A. No, I don't actually.

Q. You didn't go with him, did you? A. No, I didn't.

Q. When this plant would be replenished and you would go out then and pick up the whisky, would you be there when it was replenished -- do you know who put it in the plant yourself? A. No, sir, no, it was just there when I got there.

Q. So, so far as you know, this plant was out there and it would be deplenished and then you would go back out there and you would find the whisky? A. That's right.

Q. And then carry on your business? A. That's right.

598] Q. Who actually went and got the whisky and put it in the plant, you don't know? A. No, I couldn't swear to that.

Mr. Hickman: I want to ask a question, Mr. --

Mr. Crawford: All right, sir.

Mr. Hickman: Is that all right?

Mr. Crawford: Yes, sir.

Mr. Hickman: Thank you.

Mr. Crawford: You are welcome.

Cross-examination by Mr. Hickman

Q. This plant where you kept the liquor was not located at Admiral Place and Rockford? A. No.

Q. It wasn't in the city limits but out in the county? A. Yes, sir.

Q. Wasn't it an address of a woman named Anderson, 9100 East 16th Street, our near Mingo Road? A. Yes.

Q. Way out of the city limits, wasn't it? A. That's right.

Mr. Hickman: That's all.

Mr. Shortridge: Go ahead, Mr. Crawford.

The Court: You may cross-examine.

599] Cross-examination by Mr. Shortridge

Q. Mr. Edwards, would you please tell the court and jury whether or not during this two or three days you say you worked for your brother you were in a retail business, were you not? A. That's the kind of stamp he has got, is a retail liquor stamp.

Q. You just sold retail quantities? A. That's what I would call it.

Q. And you were in a competitive business with others, weren't you? A. Right.

Q. You don't belong to any association or anything like that? A. No.

Q. You don't belong to any group or anything like that? A. No.

Q. In competition with other people in the same business? A. That's right.

Q. You had no agreement or understanding with any officers or anything like that? A. Absolutely none.

Q. And knew of none.

Mr. Shortridge: Thank you.

Redirect Examination by Mr. Crawford

600] Q. Allright, Mr. Edwards, do you know who you were paying to have this whisky replenished? A. No, I don't. I just gave the money to Griff, and he --

Q. You just gave the money to Griff? A. Right.

Q. All right. Now how much did you pay Griff over and above the wholesale cost from Missouri? A. I didn't pay him anything.

Q. You didn't pay him $6 over a case? A. No.

Q. You said you gave him the money. A. To take to the man that he got the whisky of.

Q. And how did you know how much to give him? A. Well, he would bring back a bill.

Q. And whose name was on the bill? A. None.

Q. No name on the bill? A. No.

Q. And you would give him then the amount of money that was on that bill? A. Right.

Q. And could you determine from the amount of whisky that he delivered to you and the amount that you paid for it how much it was costing a case?

Mr. Malloy: Just a minute; we are getting into a proposition now on redirect with respect to the price of whisky, which as I recall was not involved at all --

601] The Court: What is the purpose of that line of examination?

Mr. Crawford: The purpose is to --

(Thereupon Mr. Crawford and Mr. Malloy conferred with the Court at the Bench.)

The Court: All right, do you have any additional questions?

Mr. Crawford: I have no additional questions.

Mr. Malloy: No questions.

The Court: That's all.

ELMER W. ARMS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Elmer W. Arms.

Q. What is your position, Mr. Arms? A. I am supervisor, audit unit, Alcohol and Tobacco tax, at Omaha, Nebraska.

Q. In your possession there, Mr. Arms, do you have custody of records relating to liquor sales? A. I do.

602] Q. Do you have the form called 52-B? A. Yes, sir.
Q. Would you explain to the jury what the form 52-B is. A. Form 52-B is submitted by a wholesale liquor dealer showing sales over five wine gallons, and the name and address, amount of sale in cases, and wine gallons of the various types of distilled spirits.
Q. Now, you mentioned the figure five wine gallons; does that have special significance? A. A wholesale sale is five wine gallons or more; a retail sale is less than five wine gallons.
Q. Now, how many cases or parts of cases or fifth of whisky would it take to constitute five wine gallons? A. It would take two and one-twelfth cases.
Q. Two and one-twelfth. All right, how many pints of whisky would it take in cases to constitute five wine gallons? A. Just a little less than two cases -- two cases would be exactly six wine gallons.
Q. Two cases would be six wine gallons. Now how about half pints, how many cases of half pints? A. Half pints -- pints and quarts are exactly the same figure, three gallons to the case.
Q. So two cases of any of those would constitute five wine gallons? A. Would constitute six wine gallons.
Q. Six wine gallons, yes, sir. Now, Mr. Arms, is it
603] necessary to have a wholesale tax stamp to sell over five wine gallons? A. It is.
Q. Is it necessary to have a retail stamp to sell under five gallons? A. Yes, sir.
Q. Then the alcohol and tobacco tax unit of the Internal Revenue Service makes a differentiation there in accordance with the law as to wholesale and retail on five wine gallons, is that right? A. That's correct.
Q. This form 52-B that you mentioned as having shown sales by wholesalers, could that be sales to other wholesalers; would that be including sales to other wholesalers? A. Yes, it would.
Q. Do you have any of those forms available showing sales by Joplin wholesalers to Don Gray? A. I do.
Q. What years or months do they cover? A. I have available with me the calendar year '56 and the two months, January and February 1957.
Q. Would you show us those forms, please. A. This packet here is the sales forms 52-B submitted by Bossee Sales

604] Company at Joplin only showing the transactions -- and sales to Don Gray.

Q. Now is this Bossee a wholesale liquor house? A. Yes, it is.

Q. And they show on the form 52-B all sales they have made at Don Gray; is that right? A. On the form 52-B they show all sales which they made during the months.

Q. To anybody? A. To everybody.

Q. Some of those forms have Don Gray's name on them, and some don't, is that correct? A. I only brought the ones that have Don Gray's name on, but also on the same form it has other names.

Q. Is there more than one wholesale house in Joplin selling to Don Gray? A. Yes, I brought records from six wholesalers.

Q. Do you have a recapitulation that you have made from those records? A. I do.

Q. May I see that, please?

Now, Mr. Arms, I have here these papers you gave me which are marked as Government's exhibits 5, 5-A, 5-B, 5-C, 5-D, and E, and F. I will hand you Government's Exhibit 5 and ask you to explain to the jury what that recapitulation stands for.

A. This detailed sheet here -- or not detailed sheet,
605] but recap sheet shows the total number of cases and wine gallons on the first page as sold by the various wholesales in the Joplin area to Don Gray for the fourteen-month period January 1, 1956 through February '57.

Q. Is that broken down by --

Mr. Shortridge: If the Court please, the indictment breaks off with the 21st of February, 1957. I don't suppose that would make too much difference but this covers a portion of the time that is not covered by the period named in the indictment.

Mr. Crawford: If the Court please, indictment was returned March 15, and it alleges on or about; it is within a month.

The Court: You may proceed.

Q. (By Mr. Crawford) Now can you tell from these exhibits, Mr. Arms, the amount -- the number of cases of

whisky sold to Don Gray during any particular month of 1956? A. I can tell from these recap sheets the total amount sold by all six dealers, or the total amount sold by any individual dealer for any months in the fourteen months.

Q. Will you give us the total amount sold for each -- by all the dealers to Don Gray for each month that you have records on there.

A. In the month of January 1956, 1,168-5/12th cases;
606] February 1956, 1,353-23/24 cases; March 1956, 1,293-1/24 cases; April 1956, 1,262-5/12 cases; May 1956, 1,081-11/24 cases; June 1956, 1,144-7/12 cases; July 1956, 1,059-11/12 cases; August 1956, 1,387-37/48 cases; September 1956, 1,290-7/12 cases; December 1956, 2,138-9/12 cases; January 1957, 626-11/12 cases; February, 1957, 721-5/6 cases.

Q. All right now, Mr. Arms, in the processing of those 52-B's which are required to be submitted monthly, must they go through the Joplin office? A. Yes, they do.

Q. Are they then checked at the Joplin office? A. Yes, they do.

Q. Are figures maintained there showing what they show for the particular month? A. By the wholesalers and the various retailers.

Q. Much in the same manner that you have maintained this year, is that right? A. That's correct.

Mr. Crawford: I would like to offer at this time Government's Exhibits 5 through 5-F.

Mr. Shortridge: I would like to look at them.

The Court: Any objection?

Mr. Shortridge: I don't believe they are competent or
607] material; I don't think they shed any light on the case.

The Court: Do you care to interpose any objection?

Mr. Shortridge: Yes, sir, we object to them as being introduced as being incompetent, irrelevant and immaterial, to any issue in the case, --

The Court: Objection overruled; they will be admitted.

Q. (By Mr. Crawford) Now, Mr. Arms, do you have available

the total volume for that fourteen-month period that you testified to? A. Yes, sir.

Q. And what were the -- what was the total volume of sales to Don Gray for that fourteen-month period? A. By all six wholesalers, 17,416-9/48 cases containing 45,015.905 wine gallons.

Mr. Crawford: You may inquire.

The Court: Cross-examine.

Cross-examination by Mr. Shortridge

Q. That was all tax paid liquor was it not? A. Yes, sir.

Q. Taxed ten dollars and a half a gallon paid on every gallon? A. $10.50 a proof gallon, yes.

Q. And you didn't know anything about the records of the other retail or wholesale dealers there in Joplin, do you -- or the vicinity; you didn't bring those records?

A. I have all the wholesalers here.

608] Q. But only the records with Don Gray's name on them?

A. Yes, sir.

Q. There are some records that you did not bring? A. That's correct.

Q. So you couldn't tell the jury anything about these figures from a comparative standpoint? A. No, we did not make a recap sheet on that; we spent many days making this recap sheet.

Mr. Shortridge: I see. That's all, thank you.

Mr. Hickman: Just an inquiry as a matter of interest.

Cross-examination by Mr. Hickman

Q. The taxes on that liquor that you say these wholesaler sold amounted to Uncle Sam in excess of a half a million dollars don't they?

The Court: I don't believe that is very material.

Mr. Hickman: I thought it was interesting, Your Honor.

The Witness: Do you want these?

Mr. Crawford: Yes.

If the Court please, may we permit them to withdraw these recor s from which these were made?

The Court: Yes, you may withdraw them.

* * * * *

609] GLEN STARRETT, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Starrett, you have previously testified, have you not? A. Yes, sir.

Q. And you are assigned to the Joplin office of the Alcohol and Tobacco Tax Unit? A. Yes, sir.

Q. Are you familiar with these forms 52-B? A. Yes, sir.

Q. And do they come through your office there? A. Yes, 610] sir, they do.

Q. And have you had occasion to observe and examine them as they do come through? A. Yes, sir.

Q. And do you keep records from them? A. Yes, sir.

Q. Now, where do they go, Mr. Starrett, after they go to Joplin, where are they kept, finally? A. To the Regional Office, Omaha, Nebraska.

Q. Then the Regional Records, such as those that Mr. Arms had down here, come from Omaha, is that correct? A. Yes, sir.

Q. But at any rate, they pass through the Joplin office and you take a reading from them? A. That's right.

Q. And do you pay particular attention to those records pertaining to wholesalers from the Joplin area? A. Yes, sir.

Q. And do you have there a figure that you have taken from those records during the past few years? A. Yes, sir, I do.

Q. Do you have those figures from April 4, 1951? A. No, sir, I do not.

Q. Where do your figures begin? A. January '53.
611] Q. January of '53. Now do those figures show the monthly volume of the sales to Don Gray by other wholesalers in the Joplin area? A. Yes, sir, by the month.
Q. And have you seen this chart before? A. Yes, sir, I saw that chart.
Q. This chart that I refer to has now been marked for identification as Government's Exhibit 6. I will ask you if from your examination of this chart and a comparison with your figures, do your figures on this chart correspond in accuracy? A. Yes, sir, they are the same.

Mr. Crawford: I would like to introduce at this time Government's Exhibit 6.

Mr. Shortridge: If the Court please, I don't think it is material to any issue in this case; you don't contend that the whisky was all sold in Oklahoma.

Mr. Crawford: No.

The Court: For what purpose is it offered?

Mr. Crawford: It is offered, Your Honor, for the purpose of showing the quantity of sales when we eventually have all our evidence in, of Don Gray to Oklahoma bootleggers and to show the fact that the quantity of his sales depend almost entirely on the quantity here in Oklahoma with regard to bootleggers.

612] Mr. Shortridge: I don't think the chart will show that.

Mr. Crawford: I think it will.

The Court: You may offer it later. I don't believe the proper foundation has been laid for it yet.

Mr. Crawford: Well, may I just leave it as offered --

The Court: Yes, I will reserve ruling on the offer.

Mr. Crawford: I have no further questions then of Mr. Starrett.

The Court: Do you care to cross-examine.

Mr. Shortridge: No, sir.

Mr. Crawford: If the Court please, I want to recall Mr. Starrett, if I may, to try to lay the proper foundation for the chart while he is here.

GLEN STARRETT, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Starrett, in your many years experience with the ATU, and your checking and verifying the records of the various wholesale liquor establishments and retail establishments, could you give us the benefit of your opinion as to the average case sales per month of the average liquor store?

Mr. Shortridge: Objected to, object to that as calling
613] for a conclusion of the witness.

The Court: I believe I will sustain the objection.

Mr. Crawford: I would like to try to qualify him as an expert on the subject, Your Honor.

The Court: You might ask him what figure would constitute -- no, I don't believe that is a proper question; I will sustain the objection.

Mr. Crawford: That's all.

614] ARCHIE MOORE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Moore, have you ever met the defendant Nolen Bulloch? A. Yes, sir.

Q. And you were one time associated in the retail liquor business with a man by the name of Buck O'Brien, is that right? A. Yes, sir.

Q. And do you know a police officer by the name of Harold Haus? A. Yes, sir.

Q. Now, Mr. Moore, did you on or about September 19, 1953 have occasion to meet with Nolen Bulloch, Harold Haus and Buck O'Brien? A. Yes, sir.

Q. What was the reason for that meeting, Mr. Moore?

Mr. Hickman: Object to that as a conclusion of the witness and an opinion.

The Court: Sustained; he may tell what occurred at the meeting.

Q. (By Mr. Crawford) All right, Mr. Moore, what occurred at the meeting and what was said? A. We met first Harold Haus and talked with him about the whisky business we were in
615] at the time -- we were having some troubles, by one of the officers from the police department, who was giving us a lot of trouble down there.

Q. Did Harold Haus then arrange for the meeting with you and Buck and Nolen Bulloch? A. Yes, he told us to go home and wait.

Mr. Malloy: Wait just a minute, if Your Honor please. If I understand this conversation is between Harold Haus, Buck O'Brien and Archie Moore; who is this conversation supposed to be with; it is not in Nolen Bulloch's presence is it?

Mr. Crawford: Yes.

Mr. Malloy: Are you talking about Nolen being there with you and Buck O'Brien and Harold Haus?

A. First it was Harold Haus, Buck O'Brien and myself.

Mr. Malloy: That is what I am talking about, that is what you are talking about now.

A. Yes; he told us to go home --

Mr. Malloy: If that is what you are talking about, if

Your Honor please, I am going to object to it as hearsay.

The Court: Sustained.

Q. (By Mr. Crawford) All right, where did the meeting take place between you, Buck O'Brien, Harold Haus and Nolen Bulloch? A. That was at the Will Rogers High School.

Q. Was it daytime or night? A. That was at night.

616] Q. And who made the arrangements for the meeting?

A. Harold Haus.

Q. All right, did you go out there with any one or did you go out by yourself? A. I went out to talk with Harold and Nolen, with Buck O'Brien.

Q You and Buck drove in your own car, did you?

A. Yes, sir.

Q. And -- were Bulloch and Haus there when you arrived?

A. Yes, they were there waiting when we got there.

Q. All right, did you get out and get into their car or did they get into yours? A. We got out and got into the back seat, of Harold Haus' car.

Q. Who was sitting behind the wheel of their car?

A. Harold Haus.

Q. And Bulloch was sitting in the front seat beside him?

A. Yes.

Q. All right now, Mr. Moore, will you tell this jury in substance the conversation that took place from there on out?

Mr. Hickman: We object on behalf of the clients I represent, Mr. Jay Jones, Mr. Jack Gott, and Mr. Tommie Peterson, in fact all of the other officers that are involved in this, on the ground that it is not competent at this time.

617] The Court: Objection overruled. Of course the jury will have in mind the admonition heretofore given that any statement made by a party defendant is admissible only against him until such time as the evidence in the case may be sufficient to establish that other defendants are parties to the alleged conspiracy, and once you determine the evidence sufficient to establish the other defendants are a party to the alleged conspiracy then it is admissible against all determined to be a member of the conspiracy.

Q. (By Mr. Crawford) You may relate the conversation then, Mr. Moore, that took place. A. We got in the back seat

and as we entered the car Harold Haus says, boys, this is Nolen Bulloch. And, you may now tell him what you have told to me previous; and we told him that we were working at 124 South Cheyenne in the whisky business, and a police officer came down, and had been raiding us quite often, and taking us in, so Nolen Bulloch asked us the whole story of it and we told him just in our own words what had happened down there and told him, --

The Court: What did you tell him; now relate just what you told him.

A. We told him that this police officer had told us to close up.

Mr. Malloy: I am sorry to interrupt again; he keeps
618] talking about "we"; I wonder if he told him, Buck O'Brien, Harold Haus, or who is doing the talking.

The Court: Were you the person talking to Mr. Bulloch or was it O'Brien that was talking to him?

A. I was doing the talking at the time.

The Court: All right, you may proceed.

A. We said, that police officer was going to close us up down there in the business we were in and Mr. Haus asked Nolen Bulloch if there was anything that could be done about it and he said, that he would talk to, I believe Jay Jones, and for us to go back down there and go ahead to work, that this police officer would be cut back to his regular duty.

The Court: Was the police officer named?

Q. (By Mr. Crawford) What was the name of the police officer? A. Alfred DeMoss.

The Court: When do you say this conversation occurred -- when do you say the conversation took place?

A. I am trying to have the exact date, sir: It has been --

The Court: Well, your best judgment, -- approximate the date.

A. 1953 I believe, sir.

The Court: All right.

Q. (By Mr. Crawford) Was the police officer removed? A. Yes, sir, on -- that was Saturday night -- Monday morning there was an article came out in the paper stating that
619] he had been on the -- raiding, -- special raiding squad temporarily, and had been sent back to his regular duty as dispatcher.

Q. Now, Mr. Moore, did Haus say anything to you at that time about his friendship or lack of friendship with Nolen Bulloch? A. Yes, he -- at one time he did say that -- he introduced us to Nolen Bulloch and said that they were good friends, that we might have heard a lot of stories pertaining to --

Mr. Rucker: We object to that if Your Honor please, being out of the presence of Nolen Bulloch.

Q. (By Mr. Crawford) Was Nolen Bulloch there at the time? A. Yes, sir.

The Court: I understand he says the statement was in the presence of Mr. Bulloch.

Q. (By Mr. Crawford) You may continue. A. Harold Haus said that Nolen Bulloch and he -- he said, this is Nolen Bulloch, and you can go ahead and talk to him. You may have heard a lot of stories, conflicting, that Nolen Bulloch was being -- was going to be paid to investigate him but there wasn't anything to it -- they were good friends.

Q. All right now, Mr. Moore, did Nolen Bulloch say anything at that time about his relationship with Jay Jones, whether or not Jay Jones would do as he asked him to do or told him to do? A. Harold Haus asked him if he thought he could get this done and he said, Yes, and Harold asked
620] him how, and he said he would just go and tell Jones that he couldn't -- couldn't have that type of thing going on.

Cross-examination by Mr. Rucker

Q. Mr. Moore, what was this officer's name that had been out and raided your place? A. Alfred DeMoss.

Q. Do you know where he is now? A. Yes.

Q. Where? A. Well, I don't know exactly; I know I have read in the papers that he is --

Mr. Crawford: Is all you know what you have read in the paper?

A. Yes.

Mr. Crawford: We object to the question, Your Honor.

The Court: Sustained.

Q. (By Mr. Rucker) Mr. Moore, had that officer Alfred DeMoss threatened to kill you? A. He had made a lot of threats and I believe that there was something at one time he had said pertaining to Buck and I both.

Q. In other words, he pointed a gun at you, didn't he?
621] A. That's right.

Q. And threatened to kill you, didn't he -- he indicated he might let the gun go off? A. Something to that effect, yes, sir.

Q. Well now, isn't it a fact -- had you ever seen Nollen Bulloch before in your life, except, except that night?
A. I had seen him but I hadn't had occasion to talk to him.

Q. Ever talk to him before? A. No, sir, -- no, sir.

Q. After this DeMoss pointed a gun at you and threatened to let it go off, is what when you got hold of Mr. Harold Haus?
A. Yes, sir.

Q. And he was on the police department? A. Yes, sir.

Q. Did Mr. Haus try to get hold of another reporter before he got hold of Nolen Bulloch? A. I don't know, sir.

Q. Didn't you tell Nolen Bulloch that night that this was a good story for him? A. No, sir.

Q. Wasn't he out there to try to get a story on what had happened when DeMoss was threatening to kill you? A. He might have been, sir, I don't know, -- I didn't know what the purpose was at the time.

622] Q. All right, sir, wasn't there a reporter out there the

next day checking this story, investigating out at your place of business? A. I believe the next day that someone closely related to the whisky business did call Roy Hanna and he came down -- he didn't talk with me; he talked to someone that had heard the conversation of Alfred DeMoss.

Q. All right, what was the conversation of Alfred DeMoss? A. He came down and raided a number of times.

Q. All right, what was the conversation that night or the day that precipitated the calling of Harold Haus? A. He just told us that we were going to close up.

Q. Did he curse? A. Yes, he did.

Q. Was there anybody there? A. Yes, sir, there was.

Q. Were there women? A. There was.

Q. Were there children? A. One.

Q. And did he point his gun at you that evening or afternoon or whenever he was there? A. He pulled his gun and he was talking to Buck and I both and I believe he told the two of us together, he didn't point it directly at me --

Q. Well, was he pointing at you and Buck alternately?

623] A. I think he was pointing it everywhere.

Q. All right, was he drinking? A. I don't know, sir.

Q. Did he act like he was drinking? A. He acted absolutely out of line.

Q. Yes, sir. All right, I mean, like a man who was either drinking, drunk or crazy, one or the other, didn't he? A. He sure did.

Q. All right. And that was the reason that it was an unusual situation, wasn't it; I mean, officers don't come down there drunk and pointing their gun at you all the time do they?

Mr. Crawford: If the Court please, we object, he didn't say the officer was drunk.

Mr. Rucker: No, I said, just acted like it.

The Court: I think it was obvious that it was an unusual situation. You may proceed.

Q. (By Mr. Rucker) And didn't you try to get Harold Haus to get some reporter to write it up? A. No, sir.

Q. Wasn't there -- now this may be repetition but at least as I understand it there was some reporter down there checking the truth of that story that you told that night, the next day? A. There was a reporter there the next day.

624] Q. Yes, sir. Now at the time that you was talking to Nolen Bulloch was anything said to him about a dollar, money or anything else? A. No, sir.

Q. Did you know for a fact that Harold Haus tried to get another reporter that night? A. No, sir.

Q. And couldn't get him, and he was out of town.

Mr. Crawford: If the Court please, he has answered that question; we object to it.

The Court: I believe it is repetition.

Q. (By Mr. Rucker) And you never saw Nolen Bulloch again from that day until recently? A. I have saw him.

Q. To talk to him? A. Nothing more than to speak to him.

Q. How many times --

Mr. Rucker: Go on, you ask him.

Cross-examination by Mr. Malloy

Q. Archie, let me ask you a question. You have left the impression here that you were getting knocked off repeatedly by DeMoss, is that right? A. That's right.

Q. And the raiding squad during this particular period, 625] is that right? A. Yes, sir.

Q. And you claim that that's the reason that you tried to set up this meeting, is that right, in order to get DeMoss off of your back? A. That's right.

Q. Don't you know as a matter of fact that DeMoss and his raiding squad were not in office over four days. A. I sure do.

Q. In other words, during the four-day period is what you are talking about; that you got all this trouble from DeMoss, isn't it? A. Yes.

Q. It couldn't have been more than four days of the time? A. I don't know exactly the days, but that is when it happened, yes.

Mr. Malloy: That's all.

Mr. Hickman: I would like permission to cross-examine briefly, Your Honor.

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Cross-examination by Mr. Hickman

Q. Isn't it a fact that the cause of your complaint, Archie, was not so much the fact you were being raided for liquor, as the manner and the menacing attitude in which this man DeMoss conducted the raids, isn't that right?

626] The Court: I believe that is -- just a moment --

Mr. Crawford: If the Court please, I object to that.

The Court: There isn't anything wrong with the question but I think that is the effect of the cross-examination by Mr. Rucker.

Mr. Hickman: I wanted to bring out, that that was what this man was in fear of.

The Court: Well, I think that is a proper inference from the testimony heretofore given.

Mr. Hickman: Very well.

The Court: He probably didn't like either, but the serious matter was the gun incident obviously.

Mr. Crawford: That's all. You may step down.

627] JAMES F. O'BRIEN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is James F. O'Brien? A. That's right, sir.
Q. You are sometimes known as Buck O'Brien? A. Yes, sir.
Q. Mr. O'Brien, at one time you were engaged in the retail liquor business with Archie Moore, were you not?
A. That's right, sir.
Q. You are no longer engaged in that type of business are you? A. No, sir.
Q. Mr. O'Brien, do you recall a meeting which you

attended where there was present Harold Haus, Nolen Bulloch and Archie Moore? A. Yes, sir, I do.

Q. Could that meeting have been on or about September 19, 1953? A. I am not sure about the date; it was about three days before the final election between Jones and Mr. Henderson.

Q. Do you remember the day of the week? A. No, sir, I don't.

Q. Was it daytime or nighttime? A. It was at night.

628] Q. And where did the -- what was the location of the conversation? A. There was -- it was at Tulsa University on the north -- on the south side.

Q. Could that have been possibly Will Rogers High School?

Mr. Rucker: Objected to as leading and suggestive, if Your Honor please.

The Court: Overruled.

Mr. Crawford: A mere possibility. A. I believe it was -- no, I know it was, it was Tulsa University.

Q. In other words, it was a building where you could drive up in front of it, is that right? A. Drive up beside it.

Q. On the east side of town? A. That's right, yes, sir.

Q. All right now, did you drive to that meeting with Mr. Moore? A. Yes, sir, I did.

Q. And when he arrived there did you sit in the car with Haus and Bulloch, or did you sit in your own car? A. We got out and sat in the back seat of the car with Mr. Haus and Mr. Bulloch.

Q. Did the conversation take place at that time?

629] A. Yes, sir.

Q. Would you relate that conversation to the best of your memory to the jury, please. A. The conversation was in regards to Alfred DeMoss, that had been assigned as a special investigator that same day, and we were running a place at the corner of 2nd and Cheyenne and Mr. DeMoss had come down and at the time he arrived there we were sitting out in the backyard talking to some of the people that lived in the apartment house and he came around the corner, behind the Salvation Army Building and as he came around there he pulled out his gun and told us to go inside, and he was using profane language and

everything, and we got in there and he threatened to kill us both and said that if he came back down there and we were there, he was going to kill us. So I called Mr. Haus, or, Archie did, one of the two of us, I don't recall exactly who did, either Archie or myself though called Mr. Haus, and we first me him out on North Denver by the Catholic School that used to be out there; it isn't there now, but it was, and we talked to him there and he asked us to --

Q. Now, Nolen Bulloc! wasn't present at that conversation was he? A. No, sir.

Q. All right, then, you left from that conversation and had the other meeting thereafter? A. That's right, yes, sir.

Q. I wish you would confine your statements to the con-
630] versation that took place in the presence of the defendant Nolen Bulloch at the University of Tulsa. A. All right, sir. So anyhow, we met Mr. Haus and Mr. Bulloch at Tulsa University; we got out of my car and got into the back seat of theirs. Mr. Haus introduced us to Nolen and he said that Mr. Bulloch was a good friend of his, and we could feel free to tell him just what we had told Mr. Haus, so we told him the story about Mr. DeMoss coming down and how he had acted and everything, and so he told us that we better not go back down there because he would kill us. Mr. DeMoss would. And that he would --

Mr. Malloy: If Your Honor please, I don't want to interrupt again, but he used this term "we" again; please have the witness state whether it was he or Archie Moore that did this talking.

A. It was both of us.

Mr. Malloy: About fifty-fifty?

A. Yes, sir. And so Mr. Bulloch said that we better not go back down there, or he would kill us. So he said that he would see if he could -- what he could do about it. And so we stayed closed then until after the election; we opened up the next day, or in fact, the morning after the election returns were out the night before.

Q. And was DeMoss taken off of the raiding squad?
631] A. Yes, sir, he was.

Q. And do you remember who Bulloch said he was going to see? A. He was going to see the Mayor.
Q. Did he see the Mayor? A. Yes, sir.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Rucker

Q. Now, let me get this straight; I didn't hear about you going to see the Mayor; what Mayor were you going to see?

The Court: That wasn't his testimony, Mr. Rucker.

Mr. Rucker: Oh, excuse me.

Q. (By Mr. Rucker) Mr. O'Brien, what did DeMoss do with a gun, if anything, when he came down there? A. He pulled it out, outside of the apartment, and went in, and he had Archie and I in the kitchen and he took the gun in his hand and put his hand up beside Archie's face and shoved him, and he pointed the gun right at both of us, right in our face and said, if we made one move he was going to kill us.
Q. Did he act like he was drunk or crazy? A. No, sir -- he was crazy all right, but he was just plain mean.
Q. Had there been some women and children around there when he walked up? A. Yes, sir, there were.
Q. What did he do in front of them? A. He was using
632] profane language and everything.
Q. In front of them? A. Yes, sir.
Q. Now you say this was right before the Jones-Henderson election in '54? A. -Yes, sir, it was.
Q. Three days before? A. About two or three days before, yes, sir.
Q. And you opened up right after the election was over? A. The next morning.
Q. Who won the election, Henderson won it, didn't he? A. Mr. Henderson, yes, sir.
Q. Didn't you know that -- you said Nolen was supposed to have some influence with Jones, and you opened up after Henderson won. Q. I didn't say he had any influence with Jones.
Q. Was anything said that night, Mr. O'Brien, about dollars, money or anything? A. No, sir.
Q. Wasn't there a reporter out there the next day getting information about this? A. Yes, sir, there was.

Q. Isn't it true that you had discussed with Mr. Haus,
633] and Mr. Haus discussed with you, that this was an incident that would make a good story? A. That's right, yes, sir.

Mr. Rucker: That's all.

Redirect Examination by Mr. Crawford

Q. Who was the reporter that came out the next day? A. I don't know, sir; I believe it was Roy Hanna; I couldn't swear to that but I believe it was Roy Hanna.

Q. Did he come out before or after DeMoss was off the raiding squad? A. It was early the next morning; I don't know exactly that Mr. DeMoss was taken off.

Mr. Crawford: That's all; you may be excused.

634] BOB CLEVELAND, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Bob Cleveland? A. That's correct, sir.

Q. You are a police officer with the City of Tulsa Police Force, is that right? A. Yes, sir.

Q. How many years have you been on the Police Force, Mr. Cleveland? A. Fifteen years, December 1st.

Q. Mr. Cleveland, do you know Bill Curlee? A. Yes, sir.

Q. Do you remember that -- for a while you were off the police force and working in the used car business? A. That's right.

Q. What was the reason for that? A. I was off work -- with arthritis.

Q. That was in what year that you were off? A. Well, I went off in '52, and went back the first of January in '56.

Q. All right, now, do you recall seeing Cliff Wells at your used car lot while you were working out there? A. No, sir.

Q. I mean, Bill Curlee? A. Yes, sir.
635] Do you recall what he asked you when he came out there?

A. Well, he came out there and asked me if I was pay-off

man for the City.

Q. What did you say? A. I told him, No, not that I knew of.

Q. And did you ask him who sent him out there? A. I sure did.

Q. And did he indicate that he would like to get into such a pay-off?

Mr. Hickman: We object to that on the ground that it is calling for an opinion of the witness.

The Court: Sustained.

Q. (By Mr. Crawford) Did he say anything else to you at that time? A. Yes, he told me who it was when I asked him.

Q. All right, do you know the defendant Neal Williams? A. I sure do.

Q. How long have you known him? A. I don't really know exactly but I think about two years.

Q. Do you recall a conversation with him between January and May of 1956, at a drug store near Admiral and Lewis? A. Yes, I was talking to him.

Q. And would you tell the jurors what that conversation
636] was about. A. Well, he asked me if I knew who the pay men were, and I told him I didn't know anything about it; he ought to know more about it than I would.

Q. Did he tell you that the raids were breaking him? A. Yes.

Mr. Gotcher: We object as leading and suggestive.

The Court: Sustained; you can ask him what the conversation was.

Q. (By Mr. Crawford) Well, would you relate the rest of the conversation, please. A. Well, that's about the extent of it.

The Court: What was the extent of it; just tell the jury substantially what he said to you and what you said to him.

A. Well, I don't really recall just what did take place but he asked me how they got pay down there, or something, that

they were hurting him and breaking him or something. I told him that I sure didn't know, that I thought he was in better position to know than I was, and that's about all of it.

Q. (By Mr. Crawford) Did he ask you any questions other than that? A. Not that I recall.

Q. You are a very good friend of Paul Livingston's, are you not? A. Yes, sir.

637] Mr. Crawford: That's all.

Mr. Ungerman: That's all.

The Court: That's all.

May this witness -- there may be some witnesses --

Mr. Ungerman: We have no objection to him being excused.

The Court: -- that could be excused from further attendance if you have any, Mr. Crawford, that you don't expect to use later in the case we might inquire.

Mr. Crawford: Yes, sir, I have no --

The Court: Have them excused by agreement. I understand you do agree that this witness may be excused.

Mr. Ungerman: Yes, he is on the city police force.

Mr. Crawford: I would appreciate having all the tax unit men released if I may.

Mr. Hickman: They are from out of town.

Mr. Ungerman: That's agreeable; they may be excused.

The Court: I think perhaps we better identify --

Mr. Ungerman: All those tax unit men who have testified previously.

The Court: What agents then of the Alcohol Tax -- all the agents then of the Alcohol Tax then that have already testified may be excused from further attendance.

Mr. Ungerman: I think there is a half dozen in the
638] courtroom.

Mr. Crawford: No, they are not in the courtroom.

Mr. Hickman: There are seven including the auditor -- didn't he say he was from Omaha?

The Court: Call the next witness.

* * * * *

H.R. FOWLER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Brick Fowler.
Q. And what is your legal name, your legal initials, Mr. Fowler? A. H.R.
Q. And you at one time served as Police and Fire Commissioner for the City of Tulsa, is that right? A. Yes, sir.
Q. All right now, Mr. Fowler, in what year did you serve? A. The latter part of 1950, all of 1951, and the first part of 1952.
Q. And prior to that time you served as a county
639] investigator for a period of time, had you not? A. Yes, sir.
Q. Then, back-dating that you had been a police officer of the City of Tulsa Police Department, is that correct? A. Yes, sir.
Q. Now, Mr. Fowler, do you know the defendant Nolen Bulloch? A. Yes, sir.
Q. And when you ran for Police Commissioner you ran on the Republican ticket, did you not? A. Yes, sir.
Q. Do you recall having a conversation with Nolen Bulloch at the Sequoyah Cafe just prior to one of the city elections where you were a candidate for office? A. I do, yes, sir.
Q. Did Bulloch call your home prior to that meeting or did you call him? A. He called my home.

Q. Did he talk with you? A. No, sir.
Q. Whom did he talk with? A. My wife.
Q. All right, as a result of that call did you meet him some place? A. Yes, sir.
Q. And where did you meet him? A. He came to my house
640] first.
Q. And did you have a conversation with him at that time? A. Yes, sir.
Q. And would you relate that conversation, please.
A. The conversation was pertaining to my running for office at the time. Nolen came presumably to give us information or tips as to how to operate our campaign. We invited him in the house and apparently, or to the best of my knowledge he might have stepped inside the door, but he suggested then that we go someplace else and drink a cup of coffee. My wife, Nolen Bulloch and myself got into his car and drove to the Sequoyah Cafe out on East Admiral Place. In that cafe we sat in a booth, the three of us, and this conversation took place.
Did you ask me the conversation?
Q. Yes, will you tell us the conversation there in the cafe? A. I don't know how it began. It was slow, drawn out. Nolen informed me, or us, rather, that our chances of winning the election were remote. We didn't have much of a possibility to win; and to sum things up, he used these words, "The cards are stacked against you; you can't win."
Q. Did he tell you anything in addition to that?
A. To the best of my knowledge that was the -- the crux of the whole conversation was that we were -- wouldn't be able
641] to win, and as I say, the cards were stacked against us, that if the -- that with the get out probably I would be made the Chief of Police.
Q. Bulloch, he told you that? A. Yes, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Well, Mr. -- you were in under a Republican regime were you not? A. When I was in office, yes, sir.
Q. And your opponent in this election was Jay Jones?
A. No, sir.
Q. Who was it? A. Bruce Loveless.
Q. Who got the nomination?

The Court: That was in the primary, Republican primary.

A. Yes, sir, this conversation took place before I was ever elected, before the primary election had ever come off.

Q. (By Mr. Hickman) It was a discussion with reference to your chances against Mr. Loveless? A. It was a discussion of my chances of winning the election.

Q. Winning the nomination and the election. A. Yes, sir.
642]

Mr. Hickman: That's all.

Mr. Crawford: That's all.

The Court: That's all.

I believe we will recess at this time.

* * * * *

643] CLEO EPPS, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. You are Cleo Epps? A. Yes, sir.

Q. And you have previously been sworn as a witness, have you not, Mrs. Epps? A. Yes, sir.

Q. Now, Mrs. Epps, I want to ask you some questions with regard to conversations you had with Nolen Bulloch. You testified that you made the first payment to him; do you recall where that was, specifically?

Mr. Ungerman: That's objected to as repetition, if Your Honor please.

The Court: Overruled.

A. It was near my home on the Sand Springs Road.

Q. Now did you have a conversation with Mr. Bulloch at that time? A. Yes, sir.

644] Mr. Rucker: Objected to as repetition, and recapitulation, if Your Honor please.

The Court: What is the purpose of this?

Mr. Crawford: The purpose, Your Honor, is to show the conversation in its entirety, which has not been introduced in evidence.

The Court: Objection overruled.

Q. Now will you relate as specifically as possible and to the best of your recollection the entire conversation you had with Nolen Bulloch at that time. A. Well, when I gave him the money I asked him not to double-cross me, because I had promised these people there would be no publicity, and if he went ahead and did the publicity, it would put me in the middle and make them think that I hadn't paid the money to the proper source; and he shook hands with me at that time and he said, Cleo, I never did lie to you, and I am not this time. There will be no publicity.

Q. Now did you have any other conversations with him when you delivered money to him? A. I don't remember any conversations when I delivered money to him from there on out; I usually just handed him the money as quickly as possible and left.

Q. All right. A. He usually came to my home for it; but I did have a conversation with him the second meeting before I gave him the money.

Q. All right, where did that conversation take place?

645] A. That was in the road near my home.

Q. And do you recall the year? A. In 1948.

Q. Do you recall the month? A. Not specifically, but I know it was warm weather; it must have been possibly June or July.

Q. All right now, will you tell us, Mrs. Epps, specifically to the best of your recollection what that conversation was?

Mr. Rucker: We object to all that as repetition and recapitulation; I assume this is in the nature of a redirect? I don't know, if it is, it is improper redirect.

The Court: Overruled; you may answer.

A. At that time I had told him I had passed the information on to the proper channels and I thought maybe we would be able to help him and he said, Well, it would be a good investment for them because, you know the power of the press can either make 'em or break 'em and that was about the substance of the conversation at that time.

Q. Now, Mrs. Epps, do you recall the approximate year that Nolen Bulloch began to refer to you as the Queen of the Bootleggers? A. That was after I stopped paying him.

Q. Do you recall the approximate year? A. No -- no,
646] sir, it was about the time those clubs blew up, I remember that.

Q. Over on the Creek County-Tulsa County line? A. Yes, sir.

Mr. Crawford: You may examine.

Mr. Page: If Your Honor please, comes now the defendant, and moves that this testimony be stricken as to any of the defendants, save Nolen Bulloch, it has no probative value in establishing any conspiracy; apparently it was an independent transaction -- if there was any.

The Court: Well, the motion is overruled. Of course the jury will have in mind the instructions heretofore given that the evidence is not to be considered against any person except the one to whom it relates unless there is substantial evidence that other parties became involved in a conspiracy, as charged.

Mr. Rucker: And for the further reason the statute of limitations has expired on any alleged wrong doing at that time, if any is shown.

The Court: Overruled.

Cross-examination by Mr. Rucker

Q. Mrs. Epps, when was the first payment you say that you made to Nolen, what month and what year? A. It was in '48 but I don't remember the exact month; it was sometime in the summertime I know that.

647] Q. When was the last payment? A. The last payment I guess was in '52.

Q. Did you testify here the other day that the last payment you made him was in 1949? A. There was intervals there that I didn't pay and then I began again.

Q. Had you been named Queen of the Bootleggers before you ever met Nolen Bulloch? A. I don't think so.

Q. Are you sure of that? A. Yes, sir, I am sure of that.

Q. I believe you testified the other day that you had not been in the liquor business since 1948 or 1949, is that right? A. For myself, no.

Q. Now, Mrs. Epps, you recall very clearly the exact phraseology of the conversation you had with Nolen Bulloch in 1948 -- don't you? A. Part of it.

Q. Now, can you, since you have been on the witness stand, can you now recall whether or not you met Nolen Bulloch and Lawton Bragg, the United States Commissioner, in a pick-up truck in front of or in back of the courthouse in the summer of '49? A. There were several times I talked to Nolen Bulloch in the presence of Lawton Bragg and I don't remember which
648] particular instance you are referring to.

Q. How come Lawton Bragg was there? A. Well, that I don't know.

Q. What? A. I don't know.

Q. Well, there was nothing sinister or mean or evil going on when you and Lawton Bragg was talking to Nolen Bulloch, was there? A. Definitely not.

Mr. Crawford: We object to this line of testimony as improper cross-examination.

The Court: Overruled.

Q. (By Mr. Rucker) Again let me ask you -- like I asked you the other day, can you remember whether or not you met Nolen Bulloch and Lawton Bragg in your pick-up truck near the courthouse in the summer of 1949? Can you remember that, yes, or, no? A. I remember some conversation between --

Q. Do you remember meeting Lawton Bragg -- do you remember calling Lawton Bragg, for him to contact Nolen Bulloch, to meet you at the courthouse in the summer of '49; do you recall that? A. I never called Lawton Bragg and asked him to have Nolen Bulloch meet me.

Q. Do you recall meeting in the pick-up truck --

649] A. The pick-up truck is the part I don't remember; I remember talking to them.

Q. Near the courthouse? A. I remember talking to them at the courthouse.

Q. You remember that now. Wasn't that the first time you had ever met Nolen Bulloch to talk to him? A. No, sir, the first time I met Nolen Bulloch was in this building, in the corridor out there.

Q. The first time was in the Federal Building? A. Yes, sir.

Q. And the second time was in the pick-up truck? A. I wont be sure it is the second time.

Cross-examination by Mr. Ungerman

Q. Mrs. Epps, you testified in this case Tuesday, didn't you? A. Yes, sir.

Q. Of this week? A. Yes, sir.

Q. Now, give us the names of the persons that you have discussed your testimony with since you left the witness stand Tuesday? A. The names of the persons?

Q. That's right, the names of the persons.

Mr. Crawford: Your Honor, may I inquire, is that a
650] proper question to ask the witness.

Mr. Ungerman: I think -- excuse me.

The Court: She may answer the question.

A. I have discussed it with quite a few people.

Q. Just give us the names then, please, ma'am, if you can remember. A. Well, I discussed it with most any one that started discussing it with me.

Q. Just give us the names, please, of the persons that you can remember with whom you have discussed your testimony since Tuesday of this week, the 16th of April, 1957. A. Oh, Billie Popovich, Carl Harp -- do you mean directly or on the telephone?

Q. Any person with whim you have discussed your testimony. A. Bill Purdy.

Q. Who? A. Bill Purdy. Well, I believe that's all that I have directly.

Q. Have you discussed your testimony with any Alcohol Tax Unit Officer? A. I haven't particularly discussed my testimony.

Q. Have you been in conference with any Alcohol Tax Unit Officer since you left the stand Tuesday, and, if so, name what officer. A. Yes, sir, I talked to Mr. Rogers.

Q. Who else? A. I talked to Mr. Carrol.

651] Q. Who else? A. Mr. Lashbrook.

Q. Who else? A. I think that's all.

Q. Did you talk with any representative of the United States Attorney's Office? A. Not about my testimony.

Q. About your testimony that you gave or that you were about to give today, or that you have given today? A. I have talked to Mr. Crawford.

Q. And who else? A. That's all.

Q. Did you talk with Mr. E. Lawton Bragg, the United States Commissioner about the testimony that you gave on Tuesday or that you are about to give today or have given today? A. I haven't discussed the testimony with --

Q. Did you talk to Mr. Bragg at all since Tuesday when you left the witness stand? A. No, sir.

Q. Either in person or by telephone? A. No, sir.

Q. Did you have any difficulty this morning remembering the names of the persons with whom you discussed the testimony with? A. I didn't understand to what extent you wanted

652] me to --

Q. Well, have you related all the names now of the persons that you have discussed your testimony with since you left the witness stand Tuesday? A. Yes, sir, all that I have discussed testimony with.

Q. And now you remember the exact words of what occurred as you allege in 1948 and '49? A. Yes, sir.

Mr. Ungerman: That's all.

Redirect Examination by Mr. Crawford

Q. Mrs. Epps, did any of these people tell you what to say? A. No, they --

Mr. Rucker: Objected to as leading and suggestive, if Your Honor please.

The Court: Overruled.

Q. (By Mr. Crawford) Did anybody coerce you? A. No, sir, it was mostly in a kidding way.

Q. When I talked with you did I talk with you about the testimony you had previously given or did I question you about these conversations? A. You questioned me about if there were any further conversation.

653] Mr. Crawford: That's all.

Cross-examination by Mr. Ungerman

Q. What do you mean it was a kidding way, Mrs. Epps? A. They were just kidding me about my picture being in the paper, and the publicity that I am getting on the testimony I am giving is causing a lot of friction.

Q. Did you and your co-worker Mrs. Popovich think it was a joke? A. She is not a co-worker; and it is not a joke.

Q. But it was in a kidding manner? A. Yes, sir.

The Court: I believe that is sufficient, Mr. Ungerman.

Mr. Crawford: That's all, Mrs. Epps.

* * * * *

654] CECIL BOONE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. You are Cecil Boone and you have previously testified in this case, is that right? A. That's right, sir.

Q. Mr. Boone, do you know the defendant Paul Livingston? A. I do, yes, sir.

Q. Now, during this time, Mr. Boone, when you were making the collections from bootleggers did you ever have --

Mr. Malloy: If Your Honor please, we are going to object to this question; Mr. Crawford, repeatedly recapitulating, instead of asking questions, to implant in the jurors' minds his testimony, and not that of the witness. We object to that --

we objected to that before and you sustained us on it. Mr. Gotcher is the medium of that; he is reviewing this witness, -- he is testifying, not Mr. Boone.

The Court: Overruled.

Mr. Gotcher: If Your Honor please, we object to the United States Attorney calling somebody a bootlegger because there is no evidence in here that there is a bootlegger on trial here; there is no proof by the United States Government and I assume they are enforcing Federal Law, and not the State Law, and we object to Mr. Crawford calling anybody a bootlegger until it is proven.

655] The Court: Objection overruled.

Q. (By Mr. Crawford) During that time, Mr. Boone, did you have a conversation with Paul Livingston?

Mr. Malloy: Now, if Your Honor please, at least I think he ought to fix the time.

The Court: Of course I will expect him to fix the time. First we better find out if there was a conversation.

Mr. Malloy: All right.

The Court: If it develops there was a conversation we will want to know the time and place.

Mr. Malloy: All right, I think the objection is premature -- all right.

Q. (By Mr. Crawford) Did you have a conversation during that time with Paul Livingston, Mr. Boone? A. One.

Q. All right, do you recall where that conversation took place? A. At the White Palace on 3rd and Cincinnati, I believe it is.

Q. And do you recall the year? A. I believe it was '51.

Q. And was there anyone else present, Mr. Boone, at that time? A. Mr. Harp -- Jim Harp.

Q. Jim Harp the defendant? Now would you relate to the
656] jurors that conversation to the best of your recollection.

Mr. Page: I would like to object to the conversation unless it is established as to the time.

The Court: Objection overruled.

A. Yes, I can tell what the conversation was.
Q. (By Mr. Crawford) Will you tell the jurors, please.
A. Well, Slim Mathis called me and told me that --

Mr. Ungerman: We object to what Slim Mathis called and told him.

The Court: Yes, you may not state what Mathis told you; confine yourself to conversation had with Mr. Livingston and Mr. Harp.

A. Well, I sent for Mr. Livingston and Mr. Harp, or Mr. Livingston to meet me at the White Palace, which he did, and I will have to bring Slim Mathis into this in order to tell what the conversation --

The Court: If the conversation brought him in, that's all right, but just relate that conversation occurred at the time you --

The Witness: All right, sir.

The Court: -- talked to Livingston and Harp.

A. Well, they had Slim Mathis penned out someplace where he couldn't get away with his whisky and they met me and I had made contact with my men, and Slim had promised to come in, the next day, to pay up -- he hadn't paid up, and they told me
657] to have Paul to lay off of him.

Mr. Ungerman: We object to that as purely hearsay.

The Court: Wait just a minute. You say they told you, who are you talking about now?

A. Well, Red Carter.

The Court: Now just a moment; bear in mind you were asked to relate a conversation had with Livingston and Harp;

I don't want the background of that conversation; just tell us what was said at that time.

A. Well, I told Mr. Livingston that he was to lay off of Slim Mathis until he heard from us.

Q. (By Mr. Crawford) Now, what did Mr. Livingston say, if anything? A. He just said, okay.

Q. And did you have a subsequent conversation with Paul Livingston? A. Sir?

Q. Did you ever have a subsequent or another conversation with Paul Livingston after that time? A. No.

Q. Did Mr. Livingston then leave the cafe? A. Yes, he did.

Q. And you knew him as a police officer at that time, is that correct? A. Yes, sir, I did.

Q. Do you know whether or not Slim Mathis was then turned 658] loose? A. Well, I assume that he was; he brought me --

Mr. Ungerman: We move that be stricken, not being responsive, calling for a conclusion on his own part.

Mr. Crawford: My question was, do you know?

The Court: Sustained; the question is whether you know or not.

A. Well, I couldn't swear to it, no.

Q. (By Mr. Crawford) All right now, Mr. Boone, did you ever pick up any money from Bob Brannon? A. Yes.

Q. And do you recall how much money you picked up from Bob Brannon? A. I think about $400.

Q. And do you recall the year and years that you picked that money up? A. I believe that was also in '51.

Q. And was Bob Brannon a liquor dealer at that time? A. He was, yes, sir.

Mr. Crawford: You may inquire.

Mr. Ungerman: We move that that testimony of the witness pertaining to Bob Brannon be stricken as not connecting up with anything involved in this action.

659] The Court: Overruled. Of course it will not be considered unless it is in some way connected.

Cross-examination by Mr. Ungerman

Q. Who did you give that $400 to? A. I gave it to Red Carter.

Q. Now you say that you met Paul Livingston at the White Palace, at 3rd and Cincinnati? A. That's right.

Q. You are sure about that? A. I am sure, yes.

Q. Sure about the location and everything else? A. I am.

Q. And that was in 1951? A. Yes, sir.

Q. You asked him to lay off of Slim Mathis? A. I did.

Q. That's all that was said and that's all that was done? A. Yes, sir.

Q. Mr. Boone, you are -- are you at the present time under the influence of marcotics?

Mr. Crawford: Oh, if the Court please, we object to such an insinuation.

The Court: Overruled; you may answer the question.

A. Well, I take sedatives, yes, if that is what you mean.

660] Q. Are you at the present time under the influence of morphine? A. Well, that's right, yes.

Q. And you were such on Tuesday when you testified in this Court, weren't you? A. I have been for two years, yes, sir.

Mr. Ungerman: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Boone, is it necessary for you to take these drugs? A. It is or I sure wouldn't do it.

Q. Do they interfere with your thinking process? A. No, sir.

Mr. Ungerman: I think the jury ought to be the judge of that, if Your Honor please, and not the District Attorney.

The Court: Well, I don't think the District Attorney testified; he asked the witness a question as I understand it and I will overrule the objection.

Mr. Shortridge: May I make an objection, that that answer would be beyond the witness' knowledge: It calls for a medical conclusion.

Mr. Crawford: If the Court please, it is in the same category as the question, are you under the influence of narcotics, and so forth.

The Court: I overruled the objection.

661] Q. (By Mr. Crawford) Mr. Boone, what is the --

The Court: I will say this: That I don't attach any probative value to the answer but I will overrule the objection nevertheless.

Q. (By Mr. Crawford) Mr. Boone, what is the difficulty there with your neck and that brace?

Mr. Ungerman: That's objected to as being incompetent, irrelevant and immaterial and not within the issues of this particular case.

The Court: Well, I don't think it would have been if you hadn't gone into the --

(Laughter in the courtroom obscured the court's remark.)

Mr. Ungerman: I might explain the reason -- my reason for bringing out the question of his being under the influence of narcotics.

Mr. Crawford: I would request that we approach the Bench if he is going to explain the reasons, Your Honor, it might be a matter that would not be admissible to the jury.

The Court: All right, come to the Bench.

(Thereupon, Mr. Ungerman and Mr. Crawford conferred with the Court at the Bench.)

The Court: You may answer the question.

A. What was the question.

Q. (By Mr. Crawford) The question, Mr. Boone, what was the difficulty with your neck there, in that brace? A. An operation -- surgical operations.

662] Q. Do you have to wear that brace at all times? A. Unless I sit down and put my head against the back of the chair, yes, sir.

Q. How long have you been wearing that brace, Mr. Boone? A. Since '53.

Q. Does your condition cause you any pain if you don't wear the brace or take the drugs? A. Yes, unbearable pain.

Mr. Crawford: That's all.

The Court: Any further questions?

Mr. Hickman: I would like to ask a question.

Cross-examination by Mr. Hickman

Q. Does Red Carter, that you said you paid money to, -- he wasn't an officer of the City of Tulsa, was he? A. No, sir, he wasn't.

Q. And at that time was Arthur Graves the chief of the raiding squad, vice squad as they have called it? A. He was, yes, sir.

Q. Mr. Jay Jones was not then? A. No, sir, I didn't even know Mr. Jones.

Q. You didn't even know Jay Jones? A. No, I didn't know Jay Jones.

Mr. Hickman: That's all.

Mr. Crawford: That's all.

663] BOB BRANNON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Bob Brannon.

Q. Mr. Brannon, you have been engaged in the retail liquor business, have you not? A. Yes, sir.
Q. For how long a period of time, Mr. Brannon? A. Well, the last time two years and a half.
Q. Were you engaged in it back around 1950 to '52?
A. Yes, sir.
Q. Mr. Brannon, I may as well bring this out now, I presume you have been arrested many times? A. Not very many.
Q. Have you had your liquor confiscated on occasions?
A. Several times.
Q. Do you know Cecil Boone, Mr. Brannon? A. Yes, sir.
Q. Did you ever pay him any money? A. Yes, sir.

Mr. Ungerman: Objected to, if Your Honor please, as incompetent, irrelevant and immaterial.

The Court: Overruled.

664] Q. (By Mr. Crawford) Do you recall approximately how much money you paid him, Mr. Brannon? A. $400.
Q. Was that paid all at once or in different --
A. Three months.
Q. Three months time. Where did you make these payments to Mr. Boone? A. At a car lot, First and Lewis.
Q. Do you know whose car lot that was? A. No, I don't for sure; it is his, and somebody's, -- I don't know.
Q. Did you deliver the money to the personnel there?
A. The first time another buy delivered it to him; the second two times I delivered it myself.
Q. Was the money delivered in cash? A. Yes, sir.
Q. Did you obtain a receipt for it? A. No, sir.

Mr. Crawford: You may cross-examine.

The Court: Any cross-examination?

Mr. Rucker: As a matter of curiosity, are you still in the liquor business? A. Yes, sir.
Q. Doing pretty well? A. No, sir
665] Q. But you are in it today? A. Yes, sir.

Mr. Rucker: That's all.

Cross-examination by Mr. Shortridge

Q. May I ask a question: You are in the liquor business just for yourself? A. Yes, sir.

Q. Not connected with anybody? A. No, sir, nobody but the one who works for me.

Q. Just the one who works for you? A. Yes, sir.

Q. Who works for you? A. Bob Bates.

Q. And you and Bob Bates carry on as independent operators? A. Yes, sir.

Mr. Shortridge: That's all.

Mr. Crawford: That's all.

666] E.C. CARTER, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. E.C. Carter.

Q. Mr. Carter, you are sometimes known as Red Carter, are you not? A. Yes, sir.

Q. You have been a professional bondsman here in the City of Tulsa for some period of time, is that correct? A. Yes, sir.

Q. Now, Mr. Carter, I want you to think very carefully. Do you know Cecil Boone? A. Yes, sir.

Q. Do you know Arthur Graves? A. Yes, sir.

Q. How long have you known Cecil Boone? A. Well, really, I -- oh, it has been five or six years, something like that. I have known of him you know, but I never knew Cecil really until about sometime along in the Davidson -- along about the time I started in the bond business, I would see him in there occasionally, but I got acquainted with him I believe along the latter part of '50 I think it was.

Q. Now, Mr. Carter, how long have you known Arthur Graves?
667] A. Oh, I have known him -- ten years I guess.

Q. In your capacity as a bondsman, Mr. Carter, is it necessary for you to be present in various courts at times? A. Yes, sir.

Q. Is the Municipal Court of the City of Tulsa one of those courts? A. Yes, sir.

Q. And for the benefit of the jury is that court located in the Tulsa Police Station? A. Yes, sir.

Q. Now, Mr. Carter, have you ever picked up any money from liquor dealers or bootleggers? A. Yes, sir.

Q. And will you tell the jury when you first did that? A. Well, I believe it was along, beginning, or the latter part of '50; I believe after -- I believe it was -- I believe that's right, the latter part of '50.

Q. Now at about that time, Mr. Carter, did you have a conversation with any police officers with regard to your picking up money? A. Mr. Graves.

Q. That is Arthur Graves? A. Yes, sir.

Q. And do you recall the position that he was filling at that time as a police officer? A. Well, he was a -- I believe you would call it -- I don't know whether a sergeant or
668] lieutenant, but apparently he was in charge of the liquor and gambling and vice in other words.

Q. Now, it was after that conversation that you made the pick-ups from the bootleggers, is that right? A. Yes, sir.

Q. Now for how long a period of time, Mr. Carter, did you pick up this money from the bootleggers? A. Well, of course it has been a long time back and I can't arrive at any exact date.

Mr. Gotcher: If Your Honor please, can we renew our objection to the United States Attorney calling bootleggers, when there is no evidence in this case nor has there been any evidence as to any bootlegger.

The Court: I seem to recall quite a bit of evidence.

Mr. Gotcher: I know, Your Honor, but this is a retail liquor dealer, and it is as legitimate in this Court as anybody else.

The Court: Well, in common parlance they are thought of as bootleggers; we all understand of course what the witness is talking about when he uses that term.

Mr. Gotcher: Well, Your Honor, as long as we all understand it, --

Mr. Malloy: I would like to make a further objection
669] with respect to any conversation had with Mr. Graves for the reason Mr. Graves is not a defendant, co-conspirator, or involved in the issue in this case at all.

The Court: He hasn't asked him as I remember, for any conversation with Mr. Graves.

Q. (By Mr. Crawford) Now, Mr. Carter, do you recall the number of months or years that you picked up this money from the bootleggers? A. No, not exactly -- I don't place my dates too far -- too well, because it has been so far back, but the best of my recollection was in the latter part of '50 when I started it seemed to me like it was along in the fall -- late fall possibly -- best I remember it was kind of cool weather, beginning to get cool.

Q. Now, did it continue for as long as a year or two? A. Yes, when I finished up was the -- the last was in '51 I believe and -- well, the reason why I recall the date of '51, a grand jury was here in '52, in February, I believe it was, and when the first -- stuff came out, that maybe there was going to be a grand jury investigation why it stopped my activities.

Q. That was the Federal grand jury you are referring to? A. Yes, sir.

Q. Now, Mr. Carter, where would you normally meet these bootleggers to pick the money up from them, would you go to them or would they come to you? A. Well, both ways.
670] Part of the time I would go to them; sometimes they would come to me, you know, or I would meet them somewhere.

Q. Well, was the money always delivered in cash? A. Yes, uh huh.

Q. Now, who were some of the bootleggers that you were picking money up from, Mr. Carter? A. Cecil Boone was the main one. He picked up the big end of the money, because he knew all the bootleggers at that time, and I didn't know too many bootleggers when I started in down there; in fact, there are bootleggers now that the names are very familiar to me but I wouldn't know them if they would walk out in front of me here.

Q. Cecil Boone was delivering money to you, is that correct? A. Yes, sir.

Q. Was the money identified in any way with names attached to it or clipped to it? A. The best I remember they had the names attached to it, and I believe he wrote "Cecil" on there,

on the slip, but those names normally was people I didn't know. That was the reason why I was supposed to use Cecil because he knew who the people were.

Q. Mr. Carter, which bootlegger did you pick up from
671] yourself? A. From Archie Moore, I believe he had a partner but I don't remember whether I ever picked up from his partner or not.

Q. I didn't quite catch that name; was Archie Moore? A. Archie Moore. And then his partner. I don't recall his name just offhand but anyhow he had a partner but I believe I picked the money up, what money -- all the money from Archie, the best I remember.

Q. Who else, Mr. Carter? A. Harry Miller; I picked up from Harry, -- I think one time; it could have been two, but I don't believe it was over once and he decided that is as far as he was going to go; he wasn't making enough money; he couldn't afford it.

Q. All right, how much money was Harry Miller paying you or how much money did he pay you at that time? A. I don't recall; it was either $100 or $200; I don't recall.

Q. Do you recall how much money Archie Moore paid you? A. Well, Archie was a pretty small dealer, really; he didn't do a big business. And he claimed you know that he was always pretty hard up because George Blaine had knocked him off so much longer at that time and I believe it was anywheres from -- I believe it was $100; it could have been as low as $50. And I believe there was a few months in there that he didn't even pay anything when he would be busted out.

Q. Then the more money bootleggers would be making, the
672] more money he would be expected to pay, is that correct?

A. Well, it depended on whether he was -- yes, if he was little -- little bootlegger, you would sit there and talk to him, he would say, well, I can't pay over $50, and make a living; I can't pay $100. But, you know, I would say normally it run around $100, -- from $50 to $200.

Q. Now, Mr. Carter, were there any other bootleggers that you picked up money from besides Archie Moore and Harry Miller? A. I picked up from Ed DeWeese; it didn't seem to me like it was very many times, I don't recall, I would say two or three or four times, something like that, I don't know just how many times. I believe, since I have been thrashing this out, I believe Harry paid me $100; I'm not sure.

Q. Harry Miller? A. I don't mean Harry Miller, I mean Harry DeWeese, pardon me -- I mean Ed DeWeese, excuse me.

Q. All right, Mr. Carter, do you recall any other bootleggers that you picked up the money from? A. Yes, there was Reno Waldrep.

Q. About how much did he pay you? A. From nothing to $50 -- from nothing to $100, and some months -- most of the time he didn't have anything and he was trying to live and then he would pay $50 and then he was off for a while and then he called me and said he could rake up a little money, so he
673] paid anywheres from nothing to not to exceed $100 at any time I would say, normally. Okay?

Q. Are there any bootleggers that you picked up from besides those that you have mentioned? A. There was a Bill Brown, that -- that Reno leased that place to, but he came in there, and the place was pretty well busted out; in other words, they had busted Reno out, you know, so many raids, and I believe he paid me for a short while either -- for a short while there, $50 a month.

Q. Now, Mr. Carter, what did you do with this money when you collected it? A. I gave it to Mr. Graves.

Q. That is Arthur Graves? A. Yes, sir.

Q. And where did you normally deliver it to him? A. In his office.

Q. And where was his office? A. In the Police Department.

Q. Was anyone else present at the time you delivered it to him? A. No, sir.

Q. Was the money all in cash? A. Yes, sir.

Q. Did he ever give you a receipt for it? A. No, sir.
674] Q. In your capacity as a bondsman you had clients among some bootleggers, did you not? A. Yes, sir.

Mr. Crawford: If the Court please, may I approach the bench, in company with some of the other lawyers?

(Thereupon Mr. Crawford, Mr. Ungerman, Mr. Henneberry and Mr. Shortridge conferred with the Court at the Bench.)

Q. (By Mr. Crawford) Now, Mr. Carter, during the time that Arthur Graves was head of the vice squad when you were paying him money, do you know whether or not Paul Livingston was a part of the vice squad? A. I believe he was -- he was there -- I don't remember just how often. And then they changed two or three or four times, among them, changed

people around over in there, and so I don't remember -- how long Paul was in there.

Q. Do you recall whether or not Leo Jackson was in there? A. I believe Leo was in there for a short while, best I remember.

Q. Do you recall whether or not Jim Harp was in there? A. I believe Jim was there during the time --

Mr. Crawford: You may examine.

A. In the meantime they was -- they just changed along.

The Court: Just a moment, I want to ask one question before you cross-examine:

675] Over what period of time did you collect this money, Mr. Carter?

A. Judge, I would say somewhere from the latter part of '50 to something around -- well, we quit before the grand jury.

Mr. Hickman: I can't hear him at all.

A. We quit before the grand jury started in '52, when it first came out in the paper, well we decided not to do any more collecting, you know.

The Court: Well, it continued during the year 1951 and until the -- a short time before the grand jury convened in April of 1952, is that correct?

A. No, but you see --

The Court: Turn around, there, speak into that mike.

A. Our last payment, I don't remember the date on it, but it was anyhow, when the first hearing came out on the grand jury, when it first came out about the grand jury in the paper, we stopped taking any more money. I'm not sure but I believe it was in January, I believe either December or January of --

The Court: Of 1952?

A. Yes, I couldn't say for sure my dates; I don't have

any way of keeping them, getting them straight in my mind, Judge.

The Court: All right, you may cross-examine.

676] Cross-examination by Mr. Hickman

Q. Who was the Chief of Police during this time that you collected money? A. Fred Graves.

Q. Was he the son of Arthur Graves? A. Yes, sir.

Q. And Arthur Graves was Chief or Lieutenant of the vice squad? A. Yes, uh huh.

Q. Who was the police commissioner? A. Brick Fowler.

Q. And he was defeated in '52, and Mr. Jones took office in May of '52, and the Graves went out, is that right? A. That's right.

Q. They were discharged from the Force? A. That's right, yes, sir.

Mr. Hickman: That's all.

Mr. Shortridge: If the Court please, move to strike this witness' testimony as being beyond the issues of the indictment.

The Court: Overruled.

Mr. Shortridge: Not covered by any overt act or alleged overt act.

The Court: Objection overruled -- motion overruled I should say.

677] Mr. Hickman: May I ask another question, if Your Honor please.

Q. (By Mr. Hickman) Did you testify to the facts that you have testified here today before the grand jury that returned this indictment? A. Yes, sir.

Q. Do you know where the Graveses are now, Arthur Graves and Fred Graves? A. No, I don't. I think Fred is working for the State.

Q. Do you know what office Fred Graves, the son of Arthur Graves, and the Chief of Police under Brick Fowler, held before

he became Chief of Police?

The Court: I believe that is immaterial.

Mr. Hickman: Well, let me frame it this way.

The Court: You might --

Q. (By Mr. Hickman) When did he become -- when did Arthur Graves become the head of the, or Chief of the vice squad if you know? A. Well, I believe he -- I believe he was appointed as soon as Brick taken over the administration.

Q. In May of 1950 when Brick Fowler became the Republican Police and Fire Commissioner, that is when the Graveses went into office? A. That's right.

Q. They went out of office when Mr. Jay Jones assumed the
678] duties of Police and Fire Commissioner? A. That's right.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Do you recall approximately how much money each month you turned over to Arthur Graves? A. No, I really don't; some months -- I would say anywhere from six hundred to -- started out around -- oh, six hundred to $1,000; that would just be somewhere in the neighborhood I would say; then there would be some months that the guys would be in, then they would be out, the guy Cecil was picking up, if he would come back he would say, well, you know, so and so, he wouldn't come through, this time, or, he cut down, or, this guy, he backed off -- you know, just kind of an on and off proposition. Sometimes it was more in some months than it was in others.

Mr. Crawford: All right, thank you. You may step down.

* * * * *

679] CARL HARP, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Carl Harp? A. Yes, sir.

Q. You testified before this jury in this case previously have you not? A. Yes, sir.

Q. And you have been sworn. Now, Mr. Harp, do you know the defendant Don Gray? A. Yes, sir.

Q. Did you ever meet him near Anderson, Missouri? A. Yes, sir.

Q. And what was the purpose of your meeting with him near Anderson, Missouri? A. I went up there in a truck, and I was out in the woods and he came out and picked me up.

Q. Where did you go after he picked you up? A. We went to a liquor store, I don't know which one, or what the name of it was or anything.

Q. Do you recall the year of this transaction? A. It was in the last of '52 or the first of '53, and I'm not sure of the date.

Q. All right now, what did you do when he took you to
680] this liquor store? A. Well, I talked to him and they were loading a truck. I read in the paper that I helped load it. I may have; I don't remember whether I did or not.

Q. And Mr. Gray was there with you at the time? A. Yes, sir.

Q. And what was loaded into the truck? A. Whisky.

Q. Was the whisky lugged or in open cases? A. It was both, it was lugged and in cases.

Q. All right, and do you recall approximately how much whisky was loaded into the truck? A. Approximately sixty cases but I don't remember.

Q. Now was that your truck or Mr. Gray's truck? A. It was Mr. Gray's truck -- I assume; I don't know whose truck it was.

Q. It was a truck other than yours? A. Yes, sir.

Q. Your truck had been left back in the woods, is that right? A. Yes, sir.

Q. After the truck was loaded where did you go, Mr. Harp? A. Back to my truck.

Q. In the woods? A. Yes, sir.

681] Q. Who were with you? A. I don't know who he was, I don't believe I had ever seen him before and I don't know

as I have ever seen him since.

Q. Was he a man there that lugged for Don Gray? A. I guess he worked for Don Gray.

Mr. Shortridge: We object to what the witness guesses.

Mr. Ungerman: We object to what the witness guesses.

The Court: Sustained.

Q. Did you first see him at Don Gray's? A. Yes, sir.

Q. He helped load the truck, with you? A. Yes, sir.

Q. Then what did you do when you arrived back to your truck? A. We transferred the whisky from one truck to another.

Q. From his truck into your truck? A. Yes, sir.

Q. Now, was this during the day or the night? A. It was at night; I don't remember what time it was.

Q. All right, Mr. Harp, after your truck was loaded what did you do? A. I started home.

Q. And where was your home at that time? A. I believe I lived in the 600 block on Cheyenne.

Q. Here in Tulsa, Oklahoma? A. Yes, sir.

682] Q. How far towards home did you get? A. About two miles.

Q. And what happened to you at the end of that two mile? A. Well, a car pulled out behind me and when I started to turn a curve there was three cars sitting in front of me.

Q. You were arrested at that time? A. Yes, sir.

Q. Were those Federal Agents that arrested you? A. Yes, sir.

Mr. Crawford: You may inquire

Cross-examination by Mr. Hickman

Q. Where were you going to take this whisky to unload it? A. I don't know, I had a phone number, and when I got home --

Q. Were you to take it out in the country? A. Well, I don't know, I was to find out when I got home; I never got home with it.

Q. You don't know where you were going? A. I don't have any idea whose whisky it was that I was bringing in.

Q. You said you were living on South Cheyenne, 600 block?

A. I bought a home after that out north, I believe I lived at 629 North Cheyenne.

683] Q. North Cheyenne? A. At the time.

Q. But you were not taking it home? A. No, sir.

Q. Who did you haul it for? A. Well, I went after whisky, I was sent up by Mr. Barber when I went up there; I didn't ask who the whisky was supposed to come to other than --

Q. Do you -- had you hauled for Mr. Barber before? A. I had hauled for him before.

Q. Had you hauled for him before? A. Yes, sir.

Q. Where did you turn the whisky, where did you deliver the whisky when you unloaded it? A. I don't remember.

Q. Where, just generally? A. Usually out in the country someplace.

Q. Out in the country? A. Yes, sir.

Q. Outside of the city limits? A. Yes, sir.

Mr. Hickman: That's all.

Mr. Crawford: That's all.

684] CHARLES J. HEINEN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Would you state your name please. A. Charles J. Heinen.

Q. What is your business or occupation? A. I am chief of the return processing branch in the office of the District Director of Internal Revenue, Oklahoma City, Oklahoma.

Q. In fulfilling that position, Mr. Heinen, do you have custody of the Government records of who have wholesale and retail liquor tax stamps? A. Yes, I do.

Q. Did you bring those records with you? A. Yes, I have.

Q. What years do they cover, Mr. Heinen? A. They cover the fiscal years ending June 30, 1952 through June 30, 1957.

Q. Do you have any records back prior to June 1952? A. I do not.

Q. And what is the reason for that, please? A. The Congressional Authority authorizes us to destroy records after five years.

Q. So they have been destroyed? A. That's right, yes, 685] sir.

Q. Do you have a tabulation there made from your records, Mr. Heinen, showing certain individuals who have and do not have the stamps? A. Yes, sir.

Q. May I see that, please? A. I have each tabulation in each manila folder here covering each one of them; I do not have them separated.

Q. Then what you have just handed me is a list, or files containing various individuals names on them, is that correct? A. That's right, sir.

Q. For instance here is one that bears the name, Don Rucker, the defendant Don Rucker; would you tell us what is in that file? A. Well, I have in this file a resume of whether or not retail and/or wholesale stamps have been issued to Don Rucker for the fiscal years ending June 30, 1952, through June 30, 1957, together with our record 10, and form 11, which is an application for the stamp in the years in which he procured one.

Q. Now is the same true with regard to the file of the defendant Bernard Neal Williams? A. Yes, sir.

Mr. Gotcher: If Your Honor please, what is true, I don't know what is true and not true?

Mr. Hickman: '52 to '57.

686] The Court: Did you hear his testimony concerning the contents of the file dealing with Mr. Rucker?

Mr. Gotcher: Yes, sir, but that is a conclusion.

The Court: I understood by his answer to the last question that the file pertaining to Mr. Williams contained the same information --

Is that correct, Mr. Witness?

A. That's right.

Mr. Hickman: Covering the same period?

A. Covering that same period.

Q. (By Mr. Crawford) Now, Mr. Heinen, I nctice that in these files that you have in your possession, some of which you have handed me, there is a carbon copy of the very front page, showing the information which you have testified to? A. Yes, sir.

Q. And you previously furnished me with the original copies of which these carbons are the copy, have you not? A. That's right, sir.

Q. And would you look at these papers that I have here, please -- let me first have those marked, if I might, for identification.

Now, I hand you what has been marked as Government's Exhibit 7, which are those documents that you previously furnished to me, are they not? A. That's right, sir.

Q. And those documents were prepared from your records
687] is that correct? A. That's correct.

Q. The record that you have in your possession there, at that time? A. That's right, sir.

Q. And they show on a single sheet of paper the names of various liquor dealers and then down the left-hand side the information relating to a retail liquor dealer stamp if they had one and on the right-hand side information relating to a wholesale liquor dealer stamp if they had one for the years 1952 through '57, is that correct? A. That's right.

Mr. Crawford: We now offer into evidence Government's Exhibit No. 7.

Mr. Hickman: May I inquire, are these true duplicates of your original records that you have possession of?

A. That's right, sir.

Mr. Hickman: You want to substitute copies for the originals?

Mr. Crawford: I want to introduce those.

The Court: That is the take-off from the records?

Mr. Hickman: Yes, sir.

The Court: It is a summary of what the records reflect; do you have carbon copies that you could furnish to counsel for the defendant?

688] Mr. Crawford: The only carbons I know of, Your Honor, are the carbons that appear in each individual file.

Mr. Hickman: How do you know what those -- what this reveals, Mr. Witness, retail liquor dealers stamp, wholesale liquor dealers stamp and it would show the year that stamps were issued.

A. That's right.

Mr. Hickman: And no record under wholesale liquor dealer stamp would say that there was no wholesale liquor dealer's stamp?

A. That's correct.

Mr. Hickman: That is what these are intended to reflect.

A. Yes, sir.

Mr. Hickman: Okay.

Mr. Malloy: Let me make this objection to the introduction at this time, if Your Honor please; I believe until a conspiracy itself has been established that they are not admissible; and I think also, and at this time also I would like to move for a dismissal with respect to the entire indictment on Count 2 relative to the wholesale and retail stamps prior to 1952.

The Court: Let's deal with one subject at a time.

Mr. Malloy: Well, all right, well I am --

689] The Court: We are now talking about the exhibits that have been offered in evidence, and you will be of course afforded an opportunity to object to the exhibits if you care to.

Mr Malloy: I would like to make that objection.

The Court: Upon what ground?

Mr. Malloy: On the ground that until a conspiracy itself, there has been some evidence as to the conspiracy, that the introduction of these records relative to wholesale and retail stamps as to the persons named, alleged bootleggers, would not be admissible.

The Court: Well, of course this is one of the essential elements of the alleged conspiracy, insofar as Count 2 is concerned -- couldn't ever prove a conspiracy as far as County 2 was concerned without proving that business is carried on without paying the special tax as required by law, so the objection is overruled.

Mr. Gotcher: Your Honor will pardon us but I am trying to find out where these records are that affect my client.

The Court: I think what we might do, we could have this exhibit photostated in the Clerk's Office and furnish counsel for defendants with some three or four photo copies, if you would like to have one.

Mr. Gotcher: I would appreciate it.

The Court: I believe we had better do that and then you
690] can examine them on your own time.

Mr. Gotcher: Thank you, Your Honor; as I say, I just wanted to find out --

The Court: We will make those copies, Mr. Hood will have those copies made.

Mr. Shortridge: We want to make a specific objection after we have had time to examine the exhibit.

The Court: Well, I will reserve ruling on the objection then; how many copies would you like?

(Thereupon Mr. Gotcher, Mr. Shortridge and Mr. Malloy indicated they wished a copy.)

The Court: Three.

Q. (By Mr. Crawford) Mr. Heinen, would you explain to the jury, please, the procedure that one follows in obtaining a retail liquor dealers stamp -- first, is an application made?

A. That's correct, there is an application made on Treasury Department form No. 11, and that application shows the name of the tax payer, the business address and the type of stamp that he wishes to procure and the date that he commenced business, if he started on July 1st the tax at the present time for a retail liquor dealer stamp is $50 per year, but is pro rated from July 1st or the month in which he commenced business until the June 30 following.

Q. When that stamp was issued to -- and the tax paid, what does it permit the applicant to do? A. Well, so far as I know it permits him to sell tax paid whiskies.

691] Q. Does it permit him to sell tax paid whiskies at any place he desires? A. No, sir, it is only at the place shown.

Mr. Gotcher: If Your Honor please, we object to the construction of the law by this witness; if the rules and regulations are statutes, we want them introduced.

The Court: He may answer as long as his answer agrees with my view of what the law is; of course I have to tell the jury -- that is my responsibility.

Mr. Gotcher: That's right.

The Court: But I believe it would be helpful for the jury to have some understanding about those matters at this point in the trial.

Mr. Gotcher: Yes, sir, but I would rather Your Honor would tell the jury.

The Court: I will overrule the objection. If I disagree with him I will advise the jury -- as a matter of fact I'm not so sure but what I need his help.

A. We issue a special tax stamp to the address where the sale is presumed to be consummated and if he changes that location he must notify our office by furnishing an amended form 11 application within thirty days; otherwise his stamp is null and void.

692] Q. (By Mr. Crawford) Now actually the stamp is merely a tax, is that right?

Mr. Hickman: That's a conclusion of the witness, Your Honor; I submit that is calling for a conclusion.

The Court: Overruled.

Q. (By Mr. Crawford) You may answer the question.

The Court: He has already indicated, yes.

Mr. Hickman: The stamp is not the tax; it is evidence of the payment of the tax, Your Honor.

The Court: We will argue about that later; let the witness give his version.

A. My version of it is that the stamp is a receipt showing the payment of the tax.

Mr. Hickman: That's right.

Q. (By Mr. Crawford) And the tax then has been paid at a particular location? A. That's right, sir.

Q. (By Mr. Crawford) And is the receipt or the stamp transferable? A. It is transferable to location, but not to title.

Q. Would you explain what you mean by that? A. Well, if I had a retail liquor dealers stamp I could move from anywhere -- from my present location to anywhere in the United States provided I gave the District Director thirty days notice; however if I sold my place of business I couldn't sell the stamp to another person to operate on.

693] Q. Well then, under the regulations there and the laws unless a person gives notice to the District Director, the tax is only paid on the location where the application shows and the tax stamp shows, is that right? A. That's right, sir.

Mr. Gotcher: We object to counsel reiterating and recapitulating the testimony -- the man has testified already.

The Court: Objection overruled.

Q. (By Mr. Crawford) Well now, Mr. Heinen, if a particular liquor dealer had two locations from which he were operating from, would one payment of the tax cover both locations or would there be two separate payments? A. He would have to have a stamp for each location.

Q. And for how long a period is the tax paid -- a fiscal basis? A. Yes, sir.

Mr. Crawford: If the Court please, perhaps I should wait until these have been introduced into evidence before I endeavor to relate to the jury what their significance is.

The Court: You may bring out a wholesale stamp.

Mr. Crawford: That information is listed here. I will make this question to Mr. Heinen:

Q. (By Mr. Crawford) May these records which you have given me which include a great many names -- are there any persons covered therein who have paid the wholesale
694] stamps?

(Thereupon the witness began to thumb through the documents of Government's Exhibit 7.)

* * * * *

Q. (By Mr. Crawford) Mr. Heinen, I asked you to go through those documents and select therefrom any defendants' names showing that they had any -- any persons' names showing that they had wholesale stamps during the period 1952 to '57; have you done that? A. Yes, sir.

Q. All right now, would you state please, the names of any persons from those documents who had wholesale stamps during that period of time. A. This first one is Wayne M. Padgett, --

Q. And for what year or years did he have wholesale stamps? A. For the fiscal year ending June 30, 1952, Wayne Padgett was issued a wholesale liquor dealers stamp at 2733 East 4th Street, Tulsa, Oklahoma.

Q. Is that the only year he had one for? A. That's the only year he had one for. From the fiscal year ending June 30, '52, through fiscal year ending June 30,
695] '57.

Q. Now were there any other persons who had wholesale stamps during that period of time? A. Yes, sir, George Shaner, the record shows that he procured a wholesale liquor dealers stamp in the fiscal year ending June 30, 1954, at 6407 East 7th Street, Tulsa, Oklahoma. He also procured one for the fiscal year ending June 30, 1955, at 728 South 72nd East Avenue, E -- East -- Tulsa, Oklahoma. Those are the only two years that he procured one for the period June 30, '52 and through June 30, '57.

Q. And those are the only two names? A. Yes, sir.

Q. Now, Mr. Heinen, would you explain the procedure that one must follow to obtain a wholesale tax stamp? A. The procedure in obtaining a wholesale tax stamp is exactly the same as a retail, that is, by filing an application on Form 11.

Q. And a stamp is then issued, is that right? A. That's right, sir.

Q. And what is the cost of that stamp per fiscal year? A. Just a minute, please, sir, -- I thought I had that stamp schedule here but I am sure it is $200 a year.

Q. Now, Mr. Heinen, do the same regulations apply with regard to that stamp insofar as location is concerned as applies to a retail stamp? A. Yes, sir.

Q. What is the dividing point between retail and whole-
696] sale? A. Well, any one who sells to any one person at any one time more than five wine gallons is considered a wholesaler.

Mr. Crawford: You may inquire.

Mr. Malloy: I just want to ask one or two questions, sir.

Cross-examination by Mr. Malloy

Q. I don't suppose you have brought your records that reflect the total number of retail liquor stamps issued to Tulsa County, have you? A. I did not bring that.

Q. But because of your experience do you have -- will you hazard a guess as to how many are issued annually in Tulsa County? A. I would estimate around one hundred fifty.

Mr. Malloy: That's all.

Cross-examination by Mr. Shortridge

Q. Mr. Heinen, you say that stamps authorize the carrying on of business at just one address, that is the address upon the stamp? A. That's right, sir.

Q. But isn't it true that the dealer is permitted to
697] deliver to a customer anywhere? A. I wouldn't know; the answer to that comes under the Alcohol and Tobacco Tax regulations and they would have to answer that.

Q. Are these the same -- let me ask the question a little differently; it might be easier for you to answer. Are these the same tax stamps that are sold throughout the United States to liquor dealers? A. Yes, sir.

Q. And in fact in Missouri for instance they are sold to drug stores that sell liquor and grocery stores that sell liquor, or do you know? A. Well, I imagine any -- I do not know in wet states how they are run. I know the same type of stamp is issued in wet states as in dry states.

Q. You know that those stores deliver, don't you?
A. No, I don't know personally about that.

Q. There are just these two taxes are there not, two tax stamps, retail liquor dealers stamp and wholesale liquor dealers stamp? A. We have one we call retail malt liquor and wine stamp; we have retail liquor dealers stamp and wholesale liquor dealers stamp.

Q. Just those three? A. Yes.

698] Q. You couldn't tell the jury whether or not a permitee, as we call him, could deliver off of the premises?
A. No, sir, I couldn't.

Q. You just don't know about that? A. That's right.

Redirect Examination by Mr. Crawford

Q. Mr. Heinen, you could tell the jury what you mean by a fiscal year, you have referred to that several times; will you tell us, will you please elaborate on that. A. The Government fiscal year starts on July 1st and ends on June 30; therefore all special tax stamps are issued on a fiscal year basis; they start on July 1st, or the month in which business is commenced, until June 30, and all stamps expire on June 30.

Q. Do you have a stamp such as a basic permit?
A. No, sir, that is not issued in our office.

Mr. Crawford: I have no further questions.

The Court: That's all. May this witness be excused from further attendance?

Mr. Shortridge: Yes, Your Honor.

Mr. Gotcher: Except -- are you to introduce these?

Mr. Crawford: I have offered these into evidence as I
699] understand the Court is withholding His ruling until --

The Court: It might be advisable to have the witness remain with these written records until I rule on the exhibit.

Mr. Shortridge: Could I ask Mr. Heinen another question, please.

Cross-examination by Mr. Shortridge

Q. Mr. Heinen, one person can get any number of retail liquor dealers stamps or wholedale liquor dealers stamps? A. I don't believe I understood your question, sir.

Q. Can one person buy more than one retail liquor dealers stamp? A. Sure.

Q. He can buy a thousand, can't he? A. He can, as long as he has the $50 apiece.

Q. That is the only qualification? A. Yes, sir.

Q. His past record or anything has nothing to do with it? A. Not as far as our office is concerned.

Q. All right, and can one person buy more than one wholesale liquor dealers permit? A. As far as our office is concerned, yes.

Q. But just as many as he has got money? A. That's right.

Q. And to operate at as many different places, whether
700] they are in the city or the county. A. Yes, sir.

Mr. Shortridge: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Heinen, Mr. Shortridge used the word "permit"; this tax doesn't grant with it authorization to violate State laws, does it?

Mr. Ungerman: That's objected to.

The Court: Sustained.

Q. (By Mr. Crawford) Well, it is merely a tax, is it not?

Mr. Ungerman: That's repetition.

The Court: That is repetition and it will be covered further when the Court instructs the jury.

Mr. Crawford: Thank you, sir.

JAMES G. CARROLL, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Carroll, you have previously been sworn and you have previously testified as a witness, have you not? A. No, sir.

Q. You haven't? A. Not in this case.

701] Q. Well, may I have those -- A. I was sworn just now.

Q. Is that right. Well, I overlooked that. Would you state your name, then, in full. A. James G. Carroll.

Q. What is your business or occupation? A. I am assistant chief of enforcement, Omaha Region, Alcohol Tobacco Tax.

Q. Mr. Carroll, do you have in your possession there records showing the issuance of wholesale liquor tax stamps and retail liquor tax stamps for the years 1948 to 1952? A. Yes, sir.

Q. And would you let me have those, please.

I hand you what has been marked as Government's Exhibit No. 8, Mr. Carroll.

Now, is Government's Exhibit No. 8, with the exception of the first page thereon, which I believe is in your handwriting, is that right? A. Yes, sir.

Q. Is that Exhibit No. 8 with that exception, a list of tax stamps compiled from the original records which have been destroyed? A. Yes, sir.

702] Q. Were they compiled in a Government office? A. Yes, sir.

Q. Now, to the best of your knowledge are those records the only existing documentary records of the tax stamps during that period of time? A. To the best of my knowledge they are.

Q. Now, Mr. Carroll, with regard to the defendant Don Rucker, would you state to the jury for what years, if any, he had a retail tax stamp?

Mr. Gotcher: To which we object, for the years up to and including May of 1951; it wasn't a violation of the Federal Law to import or sell whisky.

The Court: This of course pertains to the question of whether he paid the special tax required by law; the fact that it wasn't a violation of Federal law to import liquor into Oklahoma during that two-year period did not relieve the dealer from the necessity of paying a special tax. The objection is overruled.

Mr. Malloy: If Your Honor please, may I ask a qualifying question of this witness?

The Court: Yes, sir.

Mr. Malloy: Mr. Carroll, you testified that the original records for the period 1948 to 1952 have been destroyed, is that right? A. To the best of my knowledge I do not know that they exist.

Q. So that these records that you propose to testify to,
703] with respect to any of the defendants or any parties, are not original records? A. No, sir.

Q. You state they are a take-off from the official original records? A. They were furnished to me here in Tulsa when I was stationed here at that time as a record or a take-off, as you call it, from the original records.

Mr. Malloy: Mr. Carroll, did you make the take-off yourself, sir? A. No, sir.

Mr. Malloy: If Your Honor please, I am going to object to the introduction of the testimony relative to these records as not the best evidence and I don't think that the records

which have been destroyed, that there has been competent evidence here to validate the take-off or alleged take-off from the periods 1948 to 1952.

The Court: Let me ask you another question or two: Do you know how the record was prepared; which you received here at the Tulsa office and about which you testify?

A. Yes, sir, in some instances the record was prepared in which was then the investigator-in-charge-office, in Oklahoma City, from what I understood the case to be, the original tax stamp issuance. The record over there. In other instances the record was prepared in what was then the
704] District Alcohol and Tobacco Tax Office in Kansas City and furnished to me, particularly with reference to the wholesale liquor dealers, and those who were then filing 52-B reports.

The Court: Were those records received by you in your capacity as agent in charge of the Tulsa Office in the regular course of the operation of the Alcohol Tax Unit?

A. Your statement is correct, Your Honor, except that I was not agent in charge; I was the special investigator here work. g on that type of case.

The Court: In the Tulsa Office?

A. Yes, sir.

The Court: How frequently did you receive the information pertaining to the issuance of these stamps?

A. Ordinarily one list a year. In some of these instances I have one or two -- I believe two lists in one year.

The Court: I am going to overrule the objection. If the original records were available your objection on the ground that those would not constitute the best evidence would be a proper objection and should be sustained but since the original records have been destroyed it appears to me that this is the best and the only evidence available to disclose the information.

Mr. Malloy: I think that is probably -- in fact I know that is true with respect to the best evidence, but I just am going to renew my objection.

705]

The Court: Then I think we get to the question whether it would be reliable.

Mr. Malloy: Yes, sir.

The Court: Whether the record is prepared under circumstances that indicate it is accurate information.

Mr. Malloy: May I ask him one or two more questions?

The Court: Yes.

Mr. Malloy: You, Mr. Carroll, you say these records you have here were referred to you by other people having been taken from the original records? A. Yes, sir.

Q. And did the people -- were there a number of people involved in the taking-off of the original records, sir? A. That would be by assumption, though I don't have personal knowledge as to who took them off. They were made, I say, and sent to me, in some instances by my superior officers.

Mr. Malloy: They were sent to you where, sir, Mr. Carroll? A. Here in Tulsa; I was then stationed here in Tulsa.

Mr. Malloy: They were sent to you, the take-off, from Omaha? A. No, sir, from either Kansas City or Oklahoma City as the case may be.

Mr. Malloy: I see. And now do you have the list there of all the whisky dealers that had retail and wholesale

706] stamps during that period, '48 to '52? A. No, it is not complete for all those years; I notice I have no record here for the fiscal year '49. I have records for fiscal '48, '50, and '51. '49 seems to be missing.

Mr. Malloy: Were these take-offs, sir, in your office, did they cover all of the whisky dealers in the Tulsa County area? A. As of the date they were issued they were represented to me -- as of the date the lists were prepared they were represented to me as being a complete list of all the liquor dealers, wholesale and retail, as represented on the -- whatever minor identification appears on these sheets.

Mr. Malloy: You mean to say now that so far as these

records that you have here right now, the entire year for 1949 is completely missing? A. I see no reference on here to the fiscal year '49.

Mr. Malloy: If Your Honor please, I wish to object; it doesn't seem to be -- sort of compiled in a rather haphazard manner; I don't know how reliable they would be; they come from various sources, Kansas City, Oklahoma City, and various individuals who prepared -- who purportedly took from the Federal records now destroyed certain records, and then transmitted them through the mails to the office, and Mr. Carroll was second in command, and how many times they could have been changed or altered or misrepresented, it seems to me they
707] are totally unreliable for that period of time.

The Court: Objection overruled; they will be admitted.

Mr. Shortridge: I would like to make the further objection that the exception to the best evidence rule, that the original record is missing, therefore some copy may be admitted, only applies where the plaintiff himself did not put the records beyond the plaintiff's reach. Here the testimony was that the plaintiff -- or the plaintiff's agent has destroyed the record. Therefore the best evidence rule should apply.

The Court: Your objection is overruled; it is admitted.

Q. (By Mr. Crawford) Mr. Carroll, with reference to the defendant Don Rucker, what do your records show with regard to retail tax stamps for the period you have covered by those records? A. These records show that Don Rucker had a retail liquor dealers tax stamp for the years -- fiscal years 1950 and 1951.

Q. Do they show anything with regard to his wholesale stamps? A. Yes, sir.

Q. And what year did he have a wholesale stamp?
A. They show that in the fiscal year 1948 he had two different and separate wholesale liquor dealers tax stamps.

Q. All right now, Mr. Carroll, would you give us the
708] same information from those records with reference to the defendant Elmer Oakley? A. I find no record --

Mr. Gotcher: If Your Honor please, we would like to see this; I never have seen it; I would like to see it.

The Court: All right, you may see it -- you may see it.

Mr. Gotcher: If Your Honor please, at this time we move to strike any testimony as to Don Rucker for the reason that he is testifying from some records that is not introduced in evidence.

Mr. Crawford: If the Court please, the objection to the introduction of evidence was actually made by Mr. Malloy before I offered the records in evidence. I was inquiring of the witness while they were in his possession.

The Court: You now offer Government's Exhibit No. -- what is it?

Mr. Crawford: Eight, Your Honor; I now offer in evidence Government's Exhibit 8.

The Court: It is admitted in evidence; and the objection is overruled.

Mr. Malloy: If Your Honor please, let me ask him one or two more questions about this?

The Court: All right.

Mr. Malloy: Mr. Carroll -- pardon me just a minute -- this piece of paper with the ink, is of course your take-
709] off from the records, is that right, sir? A. My take-off from the records introduced in evidence, yes, sir.

Mr. Malloy: And of course these typewritten, or mainly typewritten records, are the ones you are referring to -- were the take-offs from the originals, is that right? A. Yes, sir.

Mr. Malloy: Well, I notice in here, Mr. Carroll, that even some of these records, alleged take-off records, are in handwriting -- not even by typewriter, is that right? A. At the end of one of them I believe you will find about six or seven entries which are in my handwriting.

Mr. Malloy: Those are in your handwriting? A. Yes, sir.

Mr. Malloy: From your own take-off of the originals, is that what you say? A. I am unable to tell you where I obtained the information now that I inserted on that record.

Mr. Malloy: You might have obtained it from somebody else, some other agent? A. That's possible.

Mr. Shortridge: Your Honor, might I ask the witness another question?

Mr. Carroll, these records that you speak of are informal
710] records, aren't they?

Mr. Crawford: If the Court please, that is calling for a conclusion; I think the question is improper; I object.

The Court: Objection sustained.

Mr. Shortridge: Let me ask the question a little differently:

They are not records required to be kept by law? A. No, sir.

Mr. Shortridge: They are not regular business records? A. I think that would call --

The Court: That calls for a conclusion also.

Mr. Crawford: May I ask a question, Your Honor, in response to Mr. Shortridge's --

The Court: Yes.

Mr. Crawford: Mr. Carroll, they are necessary to the agents in the field, are they not, in the course of their business?

Mr. Shortridge: That calls for a conclusion; and we ask that it be stricken.

The Court: Overruled.

A. Yes, sir.

Mr. Crawford: Thank you.

The Court: My theory as to the admissibility of the record is that it is a record prepared in the orderly operations of the

711] affairs of the agent -- of the agencies, of the Government agency; and the information from the -- information from the original records was taken from the original records, prepared and sent out to the fieldmen for their guidance in enforcing the Federal Law. And I consider the explanation of the manner in which the record was made to be sufficiently reliable to be admitted in evidence and be considered by the jury. The jury of course will ultimately determine how much credit they care to give to the testimony.

Mr. Malloy: Well, I will just ask one more question then, if Your Honor please.

Mr. Carroll, referring here to what allegedly is the stamp holders for 1950, fiscal year, to the left of that, where it says, stamp holders for 1950, fiscal year, there are initials R.L.D.; I assume that means retail liquor dealers, does it not? A. Yes, sir.

Mr. Malloy: All right. Following the L, of the initials, and the D are question marks; do you take that to be whether it is questionable, whether these are the people, or is that a typographical error or how do you explain that? A. It is my belief, sir, that the question mark is a typographical error.

Mr. Malloy: In other words, it doesn't mean that there is a question about it? A. No, sir.

712] Mr. Malloy: Well, we just renew our objection, if Your Honor please.

The Court: It is still overruled.

Q. (By Mr. Crawford) I believe I asked you, Mr. Carroll, to relate the information concerning the defendant Elmer Oakley. A. I saw no reference to Elmer Oakley among these records.

Q. All right now, how about the defendant Bernard Neal Williams? A. I found no reference to Bernard Neal Williams.

Q. And with reference to the defendant Martin Edwards?

Mr. Gotcher: If the Court please, we object to any testimony regarding Bernard Neal Williams for the reason that the Government itself alleges that he didn't come into the conspiracy until 1954, and that is by his own written statement in this case; it is set forth in the bill of particulars that Your Honor ordered him to give us.

The Court: What do you say about that?

Mr. Crawford: If the Court please, I submitted a bill of particulars as approximate dates. I don't think that the matter merits a great deal of attention, if he didn't have a stamp when he wasn't in the business why it is of no significance.

The Court: It would be significant if he didn't have a stamp and it turned out that he was in the business.

713] Mr. Crawford: Possibly.

The Court: So I believe I will sustain the objection if the bill of particulars said he entered a conspiracy in 1954, so the jury will not consider the testimony with reference to the defendant Bernard Neal Williams.

Q. (By Mr. Crawford) Did you answer my question with regard to Martin Edwards? A. I haven't yet said so.
Q. All right, will you do that please. A. In 1948, according to these lists, Martin Edwards had two separate WLD wholesale liquor dealers tax stamps issued in the name of Tommie Martin Edwards, at two different locations.
Q. Now would you give us the same information with reference to the defendant Fred E. Griffing. A. Fred E. Griffing during fiscal 1948 had a wholesale liquor dealers tax stamp, and for fiscal 1951, had a retail liquir dealers tax stamp.
Q. May we have that information with reference to the defendant F. Lee Johnson? A. F. Lee Johnson had a retail liquor dealers tax stamp for fiscal 1950.

Mr. Crawford: You may inquire.

The Court: Cross-examine.

714] Cross-examination by Mr. Gotcher

Q. Mr. Carroll, do your records -- are they just simply of Tulsa County, or Northeastern -- or Eastern District or the Northern District? A. Yes, they are, Mr. Gotcher, in some instances; for instance the one that I have marked for my own use here as No. 1, and the first one on the list being for the fiscal year 1951, covers the entire State of Oklahoma.

Q. Well now, let's go back to 1949; do you show any? A. Mr. Gotcher, I have no records for 1949.

Q. Well, let's try 1948. A. Yes, sir.

Q. Do you show any stamp holders in the County of Muskogee? A. I would have to look through to tell.

Mr. Crawford: If the Court please, I object; I don't think that is material --

Mr. Gotcher: I just want --

Mr. Crawford: -- to the issues in this case; Muskogee is in the Eastern District of Oklahoma.

Mr. Gotcher: I just want to test the thruthfulness of this record here.

A. I found one, Mr. Gotcher.

Q. (By Mr. Gotcher) Who is that, Ed Roozey? A. I find a record of the issuance of a wholesale to Otis Lockler and Elmer Oakley, six miles north of Muskogee on Highway 69.

715] Q. Yes, sir. Did you tell Mr. Crawford that you didn't have any record of Mr. Oakley in 1948? A. No, sir.

Q. Sir? A. Nothing was asked me about Mr. Oakley.

Q. There wasn't? A. I beg your pardon -- I beg your pardon.

Mr. Gotcher: I believe, Your Honor, remembers that.

The Court: Yes, I remember.

A. I find myself in error.

Q. Yes, sir. Well, now, do you find yourself in any other errors?

Mr. Crawford: If the Court please, I asked him with regard to the Northern District; Mr. Gotcher has moved outside the jurisdiction of this Court.

The Court: Was that your question?

Mr. Crawford: That was my intention -- my discussion.

The Court: That I don't remember, Mr. Gotcher. If he confined it -- your question to whether the record reflects issuance of stamps at locations located -- at locations in the Northern District of Oklahoma, --

Mr. Crawford: That was my --

The Court: Is that the only thing you were interested in?

716] Mr. Crawford: Yes, sir, I had no reason to believe we were moving outside of the jurisdiction of the Court.

Mr. Gotcher: If Your Honor please, my client Elmer Oakley is charged with entering this conspiracy as of January 1, 1948 when he wasn't in Tulsa County; and I wanted to show that he was a legitimate liquor dealer.

The Court: Of course that will be a matter of proof, where he was in 1948. Our inquiry now is strictly with reference to the issuance of stamps, and payment of tax.

Mr. Gotcher: Yes, sir.

The Court: And obviously, there must be additional proof as to whether any of the parties were engaged in the business at that time.

Mr. Gotcher: Well, I just --

The Court: And if so, where.

Mr. Gotcher: Yes, sir.

Mr. Malloy: May I ask a few questions?

Cross-examination by Mr. Malloy

Q. Mr. Carroll, I believe you have testified that from this take-off of records that you have here in the courtroom that the only record you find of a retail liquor stamp in the name of F. Lee Johnson is for the fiscal year 1950? A. Yes, sir.

Q. And for Martin Edwards the only record that you

717] have, that you are testifying to from this take-off here is the take-off of the Federal records for Martin Edwards, is in the year 1948? A. Yes, sir.

Q. And with respect to Fred H. Griffing you have testified that these records here reflect the issuance of a stamp for the year 1948 -- fiscal year, and that was not a wholesale liquor dealers stamp, and in 1951, the year ending 1951, and that's all? A. And that is in the retail liquor dealers.

Q. And that is in the retail liquor dealers? A. Yes, sir.

Q. Do you know of your own knowledge whether or not F. Lee Johnson had a retail liquor stamp during that year? A. No, sir.

Q. You didn't mean to tell the jury did you, sir, -- or represent -- I didn't mean "tell" -- represent to them that this is a complete record of the issuance of retail stamps or wholesale stamps in Tulsa County? A. No, sir, I do not.

Mr. Malloy: That's all.

I renew the objection, Your Honor.

The Court: Is it your belief that it is a complete record, Mr. Carroll?

718] A. Well, I am at this time unable to form a judgment as to how complete these records are; it has been too long. It is my belief that at the time I was working here I considered them as being a complete record that I could rely on.

The Court: Is that the record that you did rely upon in determining what stamps had been issued to liquor dealers in Tulsa County?

A. For the purposes of investigation, yes, sir. Of course naturally if it came to a matter of prosecution we would have to inspect and produce the other evidence, but for investigative purposes, yes, sir.

The Court: I am going to overrule the objection; they will be admitted for whatever value the record may have.

Jay L. Jones et al. vs. United States of America

Redirect Examination by Mr. Crawford

Q. Now, Mr. Carroll, would you give us that information with reference to the defendant John Hood. A. Yes, sir, I have found that a retail liquor dealers tax stamp was issued to John Hood for the fiscal year 1950.

Mr. Crawford: I have no further questions.

Cross-examination by Mr. Malloy

Q. Well, do you mean to say, sir that so far as John Hood is concerned now that the records that you have there reveal that John Hood was issued a retail liquor dealers stamp or a wholesaler, only for the fiscal year 1950? A. Yes, sir, that's all these records reveal.
719] Q. That's all those records disclose? Just one moment.

Mr. Malloy: If Your Honor please, I would like to renew my objection as to the exhibit with respect to the defendant John Hood.

The Court: Overruled.

Mr. Gotcher: I would like to ask a question

Cross-examination by Mr. Gotcher

Q. Mr. Carroll, did I understand you to say that you had a record for Elmer Oakley for '51 and '52? A. No, Mr. Gotcher, the only records that I found on Elmer Oakley was the one that I found after you prodded me to look for a couple other than one in the Northern District.
Q. You don't have his name on the list in Tulsa County for '51 or '52? A. No, sir.

Mr. Gotcher: That's all. Thank you.

The Court: That's all.

Mr. Crawford: May I approach the Bench, Your Honor, with reference to my next witness?

Mr. Malloy: If Your Honor please, we don't want Mr. Carroll excused; I suppose he is not.

(Thereupon Mr. Crawford, Mr. Malloy, Mr. Rucker, Mr. Gotcher, and Mr. Ungerman conferred at the Bench with the Court.)

720] JAMES F. GAULDING, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. James F. Gaulding.

Q. What is your business or occupation? A. I am special assistant of the Regional Counsel, Internal Revenue Service, in the Dallas Region.

Q. I take it from that position that you are an attorney A. I am, sir.

Q. How long have you been an attorney? A. I was admitted to practice in 1947.

Q. How long have you held a position -- the position tha you now hold? A. In Dallas, about three years. I was in California before that and Kentucky before that.

Q. In your capacity there as assistant regional counsel are you familiar with the regulations of the Alcohol and Tobacc Tax Unit of the United States Government relating to the issuance of retail and wholesale liquor tax stamps? A. I consider myself to be familiar with those regulations.

Q. Mr. Gaulding, may I ask you this question: If people are operating in a partnership in the liquor business in the retail liquor business is the stamp issued in the

721] name of the partnership or in the name of the individuals

Mr. Gotcher: To which we object; if it is regulations we desire to have the regulations introduced.

The Court: Objection overruled. I think the Court would have to take judicial notice of any pertinent regulation that would have the force and effect of law.

Mr. Gotcher: Yes, sir.

The Court: And the best way for me to take notice of it is to hear this man tell what it is.

A. The regulation does require that a special tax paid in the name of a -- paid for a partnership be paid in the name of a partnership and the stamp would show the name of the partnership.

Q. Now, Mr. Gaulding, if an owner in the retail liquor business has a retail tax stamp is it necessary for his helpers to have retail tax stamps to comply with the law? A. An employee of a holder of a special tax stamp can do his job -- work for that holder of the special tax stamp and would not be required to pay the tax for the employee.

Q. Now, may we rephrase the situation: If the employee or the helper or runner has a retail tax stamp is it necessary for the owner to have one? A. The payment of special tax by an employee would not cover the owner.

Q. Now, Mr. Gaulding, with reference to a wholesale
722] transaction, if an order should be placed for more than three or four cases of liquor and delivery is made on a lesser amount, lesser we will say than one case, is that considered a wholesale transaction?

Mr. Ungerman: Just a moment if the Court please; I think the counsel is now trying to invade the province of the court and jury in this matter.

The Court: I will sustain the objection.

Q. (By Mr. Crawford) Are you familiar with the definition of a basic permit stamp?

Mr. Ungerman: We object to that; there isn't any such thing as a basic permit stamp known to the law.

The Court: Objection overruled; he may answer.

Mr. Shortridge: May I make the further objection that there is no charge covered in Count 2, or 1, with regard to the basic permit -- no charge of failure to get a basic permit.

The Court: What is the purpose of the question?

Mr. Crawford: The purpose of the question is merely to enlighten the jury in regard to the regulations in the event it should arise.

The Court: I think it is immaterial to any issue in this case.

723] Mr. Crawford: All right, sir, I will withdraw the question then.

Q. (By Mr. Crawford) Now, Mr. Gaulding, is a retail tax stamp needed under the regulations at the place where the liquor is sold or the place where it is offered for sale? A. Either.

Mr. Ungerman: We object to that as calling for a conclusion and invading the province of the court and jury.

The Court: Overruled; the objection is overruled.

Mr. Ungerman: I would like to further state if Your Honor please, in furtherance of the objection that if there is a regulation of that particular phase of this matter I would like to hear that regulation read.

The Court: Objection overruled.

A. The law states that the tax is due and to be paid for the place where the liquor is sold or offered for sale; the place where either of these transactions would occur.

Mr. Crawford: Thank you.

The Court: Any cross-examination.

Cross-examination by Mr. Ungerman

Q. In other words, what you are attempting to tell us relative to the sale, that if a fellow has a place of business where he conducts his business that is where the stamp is issued for? A. If that is the business, conducted there, -- is offered for sale, -- now you can get into ramifications, 724] warehouses, and such.

Q. That;s correct. I'm not talking about that. I am talking about an ordinary retail liquor dealer operation.
A. As differentiated from peddling, yes.

Q. That's right. A. Yes, that's true.

Q. In other words, if he has a telephone located in Room 305, Federal Building, and has a stamp issued to that address, that is where he can conduct his business from with protection of the stamp? A. I would say that is not true unless that is where some person who has authority to elect to deliver in response to that order. If that person is there and decides, yes, I will sell to that person, that stamp at that address would cover the liability.

Q. Let's be specific then: If John Blow has a stamp procured from the Director of Internal Revenue, and gets his retail liquor dealer's stamp issued to 117 South Main Street, Tulsa County, Oklahoma, and has a telephone at that address and someone answers the phones there and takes the orders for subsequent delivery, that comes within the regulation, isn't that true? A. I can't say that that is true covering all situations because that person who answers that phone might not have authority to sell whisky for that employer.

725] Q. I am assuming that the individual who answers the telephone at that location is either the holder of the stamp or an employee of the holder of the stamp acting as his agent, servant and employee under the master and servant relationship. A. With authority to accept orders?

Q. Accept orders and to issue, and collect the money, and send it out. A. And your question -- the answer to your question would be, yes.

Q. In other words, would be protected under the stamp. Now, relative to the partnership, isn't it a fact, Mr. Gaulding, that the stamp is issued to John Jones and Jim Blow, co-partners doing business as -- A. That's right.

Q. Not in the name of the partnership, Ray Distributing Company, a co-partnership composed of -- A. Of course the tax payer would be the two individuals doing business as partners. Sometimes tax stamps are issued in trade names or partnership names. There is nothing wrong with that.

Q. Isn't it a fact that under Section 3277 of the Internal Revenue Code it provides that the persons doing business as a co-partnership in any one place shall be required to pay the tax stamp? A. Persons --

726] Q. Persons doing business as a partnership? A. That's right.

Q. In other words, the code does not recognize a partnership as an entity, but it is the persons who compose it? A. Did you ask a question?

Q. Yes, sir, isn't that correct? A. I believe that's true.

Q. Yes. A. That is, the Internal Revenue Code.

Q. Yes.

Cross-examination by Mr Shortridge

Q. Mr. Gaulding, you answered certain questions about retail deliveries. Now it is true that wholesale deliveries may be made from any place covered by the stamp, isn't that right? A. A wholesale liquor dealer may deliver whisky in response to orders He doesn't necessarily have to deliver his whisky from a place covered by a stamp. If it is covered by a stamp he can deliver from the place covered by the stamp.

Q. Or he can deliver elsewhere? A. From elsewhere.

Q. As long as he has a stamp and took the order at the
727] place covered by the stamp? A. He can deliver from places other than the place covered by the stamp.

Q. So long as the order was taken at the place covered by the stamp or the shipment was prepared at the place covered by the stamp it can be delivered anywhere, can it not? A. As far as Federal Law is concerned, that's correct.

Q. And a person doing business in Missouri is not required to have a stamp -- A. No, the --

Q. In the Northern District of Oklahoma. A. No, the answer to your former question, it is possible that he can violate other laws in doing that such as delivering them into the State of Oklahoma would be.

The Court: We are not --

Mr. Shortridge: We are just talking about stamps.

The Court: At least we should be talking about stamps.

Mr. Shortridge: And I am sorry, sir.

Q. (By Mr. Shortridge) Mr. Gaulding, -- but, I don't

know whether you answered this other question or not: A person doing business in Missouri, buys his stamps for his places of business in Missouri, isn't that true? A. Yes, if he is engaged --

Q. And that would be, for instance, in the Western District of Missouri. A. He would pay his tax to the collection officer or collection district in which his business is
728] situated.

Q. In Kansas City, Missouri, for instance, if he did business in the Western District of Missouri, he pays tax to Kansas City, doesn't he? A. I'm not familiar with the collection districts in the State of Missouri.

Q. You don't know that it is divided into two districts? A. I know that there is a St. Louis office, and a Kansas City office, where the line of demarcation is, I do not know.

Q. Well, if --

Mr. Crawford: If the Court please, this line of questioning appears to be immaterial to any issue involved in this case.

The Court: I believe -- are you through?

Mr. Shortridge: Yes, sir.

The Court: All right, that's all.

* * * * *

729] Mr. Ungerman: If Your Honor please, upon resumption of proceedings, at this time the defendants and each of them separately and jointly move this Honorable Court to strike all of the testimony heretofore given by the Government in the case in chief, relating to the importation of intoxicating liquor from the State of Missouri, into the State of Oklahoma, for the period of 1948 up to and including the 5th day of April, 1951, for the reason and upon the grounds that the Federal Liquor Enforcement Act was not applicable to the State of Oklahoma, from 1947 up to and including the 5th day of April, 1951. I would like to -- we have just discovered the inapplicability of that Act, I mean, in addition to the two-year period, and I think in fairness to the Court it should be called to the Court's attention at this time.

The Court: Well, I will give the jury proper instructions in that connection at the appropriate time but I will overrule your motion to strike.

When was this Act amended?

Mr. Ungerman: All right, here is what it now develops: From a resume of the authorities, that following the USA versus Dunn, the Oklahoma Legislature enacted a law which did meet the requirements of the Federal Statute; that is, 16 Oklahoma Statutes, 1939, which is known as 37 Oklahoma Statutes,
730] Section 41 and 48 under which law then the Federal Liquor Enforcement Act of 1936 became applicable to Oklahoma. However, in 1947 the law was repealed, and Federal Enforcement was no longer effective in Oklahoma. Then in 1949 this change of the law was made in the attempt to bring it back and put Oklahoma into one of the states that importation would be prohibited, and that law was held unconstitutional and inapplicable to Oklahoma in USA versus Williams and USA versus McCarthy cases, which were decided in 1950. And thereafter under the decision, as Judge Pickett points out, in 184 Fed. (2) 663, Oklahoma was without any protection of the Federal Act from 1947 to 1948, and then when the '49 Act was passed, it was declared inapplicable, so we didn't have any enforcement during that four-year period.

The Court: What is that citation?

Mr. Ungerman: 184 Fed. (2) 663 decided by Judge Pickett, and concurred in by Bratton and Huxman.

The Court: I will advise you later --

Mr. Froeb: If the Court please, it is my understanding and our previous understanding the repeal in '47 -- '49 was held ineffectual because the Act of '47 was repealed by number and section and that repeal was held ineffectual -- repealing an act in that manner.

731] The Court: I will check it, and give the jury appropriate instructions later. It still involved the question, even though importation was not unlawful, there is still involved the question raised in Count 2.

Mr. Ungerman: That's correct.

The Court: Of the indictment, of course.

Mr. Ungerman: That's correct.

The Court: Which charges the defendants with having engaged in business without paying the special tax and having conspired to carry on the business without paying the special tax.

Call your next witness.

MRS. H.R. FOWLER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. I am Mrs. H.R. (Brick) Fowler.

Q. And Mrs. Fowler, your husband at one time served as Police Commissioner and Fire Commissioner for the City of Tulsa, did he not? A. That is true, for a two-year period.

Q. Now, Mrs. Fowler, prior to the time that your husband
732] was elected, and at one time when he was running, did you have an occasion to talk with the defendant Nolen Bulloch at or near the Sequoyah Cafe here on East Admiral Boulevard? A. Yes, Brick and I both, did, Mr. Bulloch came by our house and took us out there.

Q. And do you recall the conversation that took place there at that time? A. Yes, I do.

Q. Would you tell the jury what that conversation was?

Mr. Hickman: What year was this, Mr. District Attorney?

A. This occurred in the early part of the campaign period before the city primary election in 1950, when my husband Brick was a candidate for the office of Fire and Police Commissioner.

Q. Would you relate the conversation then, please, Mrs. Fowler. A. Mr. Bulloch had told us that since we were new to politics that he thought he could give us some good tips. And,

he had first come by the house and we asked him to come in, which he did, but declined to sit down, insisting that we go out someplace where we could have coffee and could talk, so he took us to the Sequoyah Cafe. It was a comparatively new place; I had never been there, and it was in a sparsely settled part of Admiral Boulevard at the time.

Q. Mrs. Fowler, while you were there was there anybody else in your presence besides your husband and Nollen Bulloch?

A. No, just the three of us were there in a booth.

733] Q. And did Bulloch say anything at that time with regard to whether or not your husband should continue the race for Fire and Police Commissioner?

Mr. Hickman: Object to that as leading and suggestive, if Your Honor please.

A. Well, Mr. --

The Court: Overruled.

A. Mr. Bulloch was to give us some tips, the way he told it to me before he came down, over the telephone, he told me he wanted to give us some tips because we were new in the local politics field and that we were not known, and anybody as new and inexperienced as we were could probably do with a few tips. I assured him that we would be glad to talk with him; we were having lots of those kinds of calls from my friends who were anxious to see my husband win the race, who were interested in us, even though we were new in politics, and I thought that --

Q. (By Mr. Crawford) Just a moment, Mrs. Fowler; I don't believe it is competent evidence, what you thought -- if I am correct in that, Your Honor.

The Court: You are.

Q. (By Mr. Crawford) Would you relate to us the statements Bulloch made to you in your presence and the statements made to your husband in your presence. A. He talked to both of us; he insisted he wanted to talk to both of us, it was to both of us, and a three-way conversation. He concentrated

734] as I said to begin with on our being new, and in fact -- he concentrated on all the discouraging features about our campaign, that we were new, weren't known to party workers, and

all that, and that was a decided disadvantage. And then he pointed out that we -- he wondered if we had given any consideration to the fact that a party that was interested in being elected to a city office usually had to be well enough known that his name was prominent in the public, and that sometimes it took one or twoo - at least one or two campaign periods to even obtain that publicity; that a first-time office seeker was seldom, if ever, elected to the office that he sought; and he was wondering if we had given that any consideration and if so, were we in a position financially to stay in the game that long, if it took that long to win an office, -- that we were so excited about. And then he pointed out -- he was doing most of the talking, this was leaving me just a little bit --

Mr. Rucker: Objected to any conclusions, if Your Honor please.

The Court: Sustained; just relate the conversation.

A. Well, he proceeded then to point out that, did we know that in a primary election that as a rule that the central committee man, or the chairman of the central committee party workers did not take part in the primary as far as recommending one candidate over another.

735]

Q. (By Mr. Crawford) Well, now, Mrs. Fowler, did he say anything to you or to your husband there in that conversation with regard to whether or not your husband should withdraw from the race?

Mr. Rucker: Objected to as leading and suggestive.

The Court: Overruled.

A. Yes, he did.

Q. And would you relate what he said in that regard, please. A. Well, he, after pointing out three or four different ways that we were already beaten --

Mr. Rucker: We object to that as repetitious, if Your Honor please.

The Court: Overruled.

Mr. Hickman: Just a moment, we think "pointing out" is a conclusion of the witness instead of the relation of the facts of the conversation, that she was asked to relate, and not in response to the question.

The Court: Now, Mrs. Fowler, I think you are covering
736] perhaps more ground than the question calls for. The last question was of course, first objected to because it was leading. I overruled that objection because I wanted you to go right to the point. Now repeat that question and listen carefully to the question and give a direct answer to it if you will.

Q. (By Mr. Crawford) Will you relate to the jury what Mr. Bulloch said with regard to whether or not your husband should withdraw from the race. A. That we were beaten before the votes were -- before the votes were -- before the voting began, that we should appreciate these things being pointed out to us, and if we would get out of the race we would be smart and money ahead. That --

Q. Did he say anything about what position your husband might fill if he did withdraw from the race? A. Yes, he said that if we were smart and got out of the race, and conceded that we were beat, and dropped out in favor of his opponent that we could probably be -- probably be named Chief of Police, if the Republicans won in the general election.

The Court: I doubt very seriously the materiality of this evidence.

Mr. Rucker: Move that it all be stricken, if Your Honor please, for that grounds.

Mr. Crawford: I would like to approach the Bench.

737] (Thereupon Mr. Crawford and Mr. Rucker conferred with the Court at the Bench.)

The Court: I overrule the motion -- a motion to strike, was it?

Mr. Rucker: Yes, sir.

The Court: I will overrule that motion, but be very brief on this particular point.

Mr. Crawford: Very well, Your Honor.

Q. (By Mr. Crawford) Mrs. Fowler, did you have a conversation with Paul Livingston at about the same time?
A. Not about the same time; sometime later, possibly another few days or a week, Mr. Livingston called me.
Q. And what did Mr. Livingston say to you?

Mr. Rucker: We object to that if Your Honor please, as too remote, incompetent, not relevant; it is not material to these issues.

The Court: I don't believe it is. I will sustain the objection.

Mr. Crawford: I have no further.

Cross-examination by Mr. Rucker

Q. As a matter of curiosity, didn't Nolen Bulloch live about a block from you folks? A. I think he lived about three blocks.

Mr. Rucker: That's all.

738] Mr. Hickman: May I ask a question?

Cross-examination by Mr. Hickman

Q. Your husband was running in the Republican primary against a man named Bruce Lovelace, is that right? A. That's correct.
Q. Bruce Lovelace at that time occupied the position of under-sheriff of Tulsa County, under Sheriff George Blaine?
A. I don't know whether he was still in the office or had taken leave.
Q. But he had been under-sheriff under George Blaine?
A. He had been something at the courthouse.
Q. And this was in 1950? A. Yes, in the primary campaign period.

Mr. Hickman: All right, that's all.

DON DOWNING, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Don Downing.
Q. And, Mr. Downing, what is your business or occupation? A. City investigator for the City of Tulsa.
Q. For how long a period of time have you filled that
739] position? A. Since the last election of the city officials.
Q. And that would be -- A. May 8, 1956.
Q. Was that the election or the date they took office? A. That is the date they took office.
Q. That is the date you were appointed? A. Yes, sir, I was appointed before that, but to take effect on the 8th day of May, 1956.
Q. Mr. Downing, where were you -- where were the Democratic Headquarters here in the City of Tulsa? A. The mezzanine floor in the Pythian Building at 5th and Cincinnati.
Q. Now, Mr. Downing, do you recall seeing Jay Jones in that building the approximate date of the election, April 3, 1956? A. Yes, sir, I do.
Q. Where did you see him? A. On the mezzanine, there at the elevators.
Q. Did you hear any statement that he made or may not have made? A. I heard him make a statement to an elderly gentleman to the effect, he stated, I intend to make all I can this term because I don't expect to get elected again.

740] Mr. Crawford: That's all.

The Court: Cross-examine.

Cross-examination by Mr. Hickman

Q. Mr. Downing? A. Yes, sir.
Q. Who was the person he made the statement to? A. I did not know the gentleman.

Q. Where were you with reference to the location that they were? A. I was approximately three or four feet from him.

Q. Do you know what he was talking about at the time? A. Not anything specific except they were talking about the election. I heard several rumors and several comments about the amount of votes.

Q. All right, what did you hear; tell us all that you overheard. A. Well, I remember he said it was a close race and that he didn't expect to have that many votes over his opponent, and then he went into the subject of any -- saying that he intended to make as much as he could.

Q. Make as much what, did he say? A. No, he didn't say.

Q. You don't know whether he meant arrests, or anything?

Mr. Crawford: Object to the question in regard to the
741] fact it calls for what the witness knows, not what he heard.

The Court: Overruled, he may cross-examine.

Q. (By Mr. Hickman) What was the other man's comment? A. I don't remember any comments; he looked at me and I walked on past them. He made no comment until after I was out of hearing range.

Q. Now, whom was the first person you mentioned this to? A. Well, that would be rather hard to say. I believe I went on in the Headquarters. I say I don't believe I even mentioned it to anybody that evening. This was during the time of the ceremony after the elections were final.

Q. When did you first mention it to anybody? A. Well, I couldn't remember that, sir.

Q. Can't you give us any idea? A. Well, I have mentioned it to several people. It was in the year of 1956 and even after I -- the administration took office.

Q. Did you ever go to Mr. Jones and ask him what he meant by that? A. I did not.

Q. By whom were you appointed to your job? A. The Mayor of the City of Tulsa.

Q. And the City Commission of course? A. They approved it, yes, sir.

Q. And Mr. Jones is one of the Commissioners? A. Yes,
742] sir.

Q. And what is your name? A. Don Downing.
Q. What did you do; what do you do, what is your profession? A. City Investigator.
Q. I know that; what is your job? A. Legal investigator for the legal department of the City of Tulsa.
Q. You are not an attorney? A. No, sir. -
Q. What did you do beforehand, before you got that job? A. I was a Justice of the Peace, District 9, Tulsa County.
Q. Where was that located? A. It was located 6100 East -- beg your pardon, West 61st Street.
Q. Was that in the city limits? A. No, sir, it is outside of the --
Q. Well, where do you live? A. 4300 South 41st West Avenue.
Q. Is that in the city limits? A. No, sir.
Q. You mean you are investigator of the City of Tulsa and you don't live in the city limits? A. I do; I was not -- I don't see what that has to do with this case.
743]
The Court: It doesn't have any.

Mr. Hickman: It doesn't have anything to do with this case.

A. I am not on trial.

The Court: Wait just a minute. We will have to depend on counsel to object and upon the Court to rule on the objections.

A. Yes, sir.

The Court: Not the witness.

A. I'm sorry.

The Court: It doesn't have anything to do with the case and as far as I know it doesn't have anything to do with his job.

Mr. Hickman: I don't know; I thought maybe the City of Tulsa didn't employ persons who lived in Jenks, or other cities or out of the city limits.

The Court: I think that would be a matter of discretion vested in the Commission.

Q. (By Mr. Hickman) Did you ever talk to Mr. Jones?
A. Yes, I have talked to Mr. Jones.
Q. Did you ever mention to him what you heard him say that day? A. I did not.
Q. Did you ever have occasion to ask him what he might
744] have been meaning when he said that? A. No, sir.

Mr. Hickman: All right, that's all.

Redirect Examination by Mr. Crawford

Q. Now, Mr. Hickman asked you if you ever talked to Mr. Jones, Mr. Downing. Did you ever talk to Mr. Jones with reference to an investigation that you were making? A. Yes, sir, several times.
Q. And where did these conversations take place?

Mr. Hickman: We object, Your Honor, to any redirect examination on matters that were not brought out on direct examination or cross-examination. He might go on now and spend the rest of the afternoon on conversations about other matters.

The Court: We won't do that, but I will permit this question to be answered.

Q. (By Mr. Crawford) Where did those conversations take place? A. One conversation, I believe the first assignment I had in regards to city employees or city funds was in Mr. Jones' office.
Q. Were you conducting an investigation at that time?
A. I was conducting an investigation on the use of gasoline to all privately owned vehicles and city owned vehicles,
745] to try to determine if something could not be corrected in the amount of gasoline used, because --
Q. Well now, just a moment --

The Court: That would not be material.

Mr. Crawford: All right, Your Honor, I will conclude at this point then.

Mr. Hickman: That's all.

The Court: That's all.

Mr. Crawford: Just one thing -- Mr. Downing, with which party are you affiliated with?

Mr. Hickman: Object to that as immaterial.

The Court: Sustained.

Mr. Crawford: That's all.

DAN GRAHAM, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Would you state your name, please. A. Dan Graham.
Q. Mr. Graham, do you live in or about the city of Tulsa? A. Yes, sir.
Q. Do you know the defendant Jay Jones? A. Yes, sir.
746] Q. And approximately how long have you known him?
A. Some ten, maybe twelve years -- ten any way.
Q. Now, Mr. Graham, do you recall being present at a conversation between Jay Jones on or about the time of the last city election? A. Yes, sir.
Q. And where did that conversation take place? A. I believe it was down at the Democrat Headquarters.
Q. That was located in the Pythian Building? A. I believe it was, yes, sir.
Q. Now, Mr. Graham, at that time do you recall who was present? A. No, sir, I don't -- there was quite a few.
Q. And Mr. Jones was present? A. Yes, sir.
Q. How close were you to him at the time? A. Oh, six or eight feet.
Q. And what did you hear him say, if anything?
A. Well, in some respects I had an idea what you would like to know, so, I did hear him say he didn't make any money out of the administration before, but if he was elected again he was going to.

Mr. Crawford: That's all.

Mr. Hickman: Did he say, that was all?

747] Cross-examination by Mr. Hickman

Q. Is that all you remember, Mr. Graham? A. Well, in reference to that, I told this gentleman here that I had supported Mr. Jones two terms before, even furnished his testimony.

Q. What did you say -- was that all that was said? A. I don't remember if he was addressing me directly, or who he was talking to, I wouldn't say, but I did hear him make that statement.

Q. Who was the first person you told that to? A. Oh, I couldn't say that either. I really didn't intend to tell Mr. Crawford about that, to be frank with you.

Q. Well, when did you do that? A. I beg your pardon?

Q. When did you do that? A. Oh, a few days back, in the course of conversation.

Q. That is the first time you had ever mentioned it? A. Well, to any one that reminded me again of it, yes, sir.

Q. Did you ever talk with Jay about what you had overheard him say? A. No, sir.

Q. Have you been a candidate for city office? A. Yes, sir.

Q. How many times? A. Well, I believe -- I believe every two years for the last eighteen years.

Q. How many times did you get elected? A. I have never
748] been on the city, county, state, or federal payroll except in Uncle Sam's Army, sir.

The Court: Well, is it fair to say that you are still a candidate?

A. I am still a candidate.

Mr. Crawford: I believe that's all.

Q. (By Mr. Hickman) What is the state of your feelings --

Mr. Malloy: Wait a minute, Mr. Crawford, he hasn't been excused by Mr. Hickman.

The Court: Now again, --

Mr. Malloy: Pardon me.

The Court: You gentlemen want to remonstrate; take it up with the Court.

Mr. Malloy: I beg your pardon.

The Court: I happen to be the referee.

Q. (By Mr. Hickman) What is the state of your feelings toward Jay Jones?

Mr. Crawford: We object in regard to this line of questioning, unless Mr. Hickman insists on it.

The Court: I will overrule it.

A. Well, I have always felt very highly toward Mr. Jones. I supported him twice as I said and I thought he was a good upright Christian man. I didn't support him the last time, if that is what you mean.

749] Q. (By Mr. Hickman) That was because he discharged your wife? A. No, I beg your pardon, that had nothing to do with it.

Q. Did he discharge Mrs. Graham? A. I believe he did.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. When did he do that, Mr. Graham? A. After he had taken office.

Q. After he had taken office? A. Yes, sir.

Q. And after the election then? A. And after the election, yes, sir.

Mr. Crawford: That's all.

The Court: That's all.

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750] HOWARD EDMONDSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Howard Edmondson.

Q. Mr. Edmondson, you are presently serving as the County Attorney here in Tulsa County, are you not? A. That's correct.

Q. You are in your second term, is that correct? A. That's correct.

Q. Do you know the defendant Jay Jones? A. I do.

Q. And you of course know the County Sheriff, Glenn Brown? A. I do.

Q. Now, Mr. Edmondson, did you and Mr. Brown together ever have a conversation with Jay Jones regarding the Tulsa Police Department? A. Yes, on several occasions.

Q. And when was the first occasion? A. The first one that Glenn and I had together with Jay I believe was sometime during the month of June 1956.

Q. And where did that conversation take place? A. To the best of my recollection it was in the Sheriff's office.

Q. And was there any one else present besides you,
751] Glenn Brown, and Jay Jones? A. Not that I can remember; I don't recall anyone else being there.

Q. Now, will you relate to the jury the substance of that conversation to the best of your knowledge?

Mr. Hickman: We object to it on the ground it is incompetent, irrelevant and immaterial, not tending to prove or disprove any issue in this case.

The Court: Overruled.

Mr. Hickman: Exception.

Q. (By Mr. Crawford) You may answer the question. A. We -- as I recall it now, I am not certain whether we asked him to come up there, or he just came; I don't remember that. But anyway we talked to him with reference to a situation that had come to our attention in the North part of Tulsa concerning a man by the name of Scoggins, who is -- who was a grocery store operator on North Peoria, and related to him the information that we had concerning that.

Do you want me to --

Q. Well, what did Mr. Jones say then in answer to that? A. Well, we told him about it, and he told us that, as I recall it that he didn't know anything about it, and he would do whatever he could to break it up and stop it.

Q. All right, how, when was the -- that was in June? when
752] was the next conversation that you and Glenn Brown had with Jay Jones? A. The next conversation we had together with Jay?

Q. Well, did you have one in between then? A. I believe so.

Q. All right, where was that? A. In Jay's office.

Q. Do you recall when that one was? A. Sometime during the month of July.

Q. And what did that conversation have reference to?

Mr. Hickman: We object to that on the ground it is incompetent, irrelevant and immaterial, and not within the issues.

The Court: Overruled.

A. Well, I had gone down to Jay's office on another matter entirely, and while I was there in his office, among other things that we discussed, I mentioned to him the fact that -- and we discussed it backwards and forwards, both of us -- the fact that in my opinion there should be more raiding by the --

Mr. Hickman: We move that that expression of opinion by him to Mr. Jones be excluded from the record because it is incompetent irrelevant and immaterial, not tending to prove any conspiracy in this case, a matter of opinion.

The Court: Wait until he finishes his testimony about the
753] conversation; I will then decide what to do about it.

Q. (By Mr. Crawford) You did discuss the fact that there should be more raiding, is that right?

Mr. Hickman: We object to what they discussed; I insist, if it is competent, it should be what was said, Your Honor.

The Court: You may proceed with your answer, Mr. Edmondson.

A. That was what I told him was my opinion; and he stated, in substance, to me, -- I don't remember the identical words -- that if that was true he would do something about it.

Q. All right. A. And that was just about the gist of the entire conversation.

Q. All right, now, Mr. Edmondson, after that conversation you and Glenn Brown had another with Jay Jones, is that right, where Glenn was present? A. That's correct.

Q. And where did that conversation take place? A. I think it was again in Glenn's office.

Q. And what month was -- of the year was that conversation taking place? A. It was in the latter part of the summer -- I mean -- I think -- or the best of my recollection was it was in August.

Q. And will you relate that conversation to the jury, please?

754] Mr. Hickman: Same objection.

The Court: Overruled.

A. The conversation was in substance that we were not accusing Jay of anything but that in our opinions that we would receive less complaints if the vice squad would raid more than they were raiding.

Q. (By Mr. Crawford) And what did Mr. Jones say? A. Well, now, it was in one of these conversations -- I think it was the first one, Hayden, that he picked up the phone and called Paul Livingston, and told him to -- told him what our conversation was, and told him to start raiding some more -- to pick up the tempo of their raids; I think that was the first conversation that Glenn and I had with him.

Q. Between the first conversation then and the one you have just related, did the tempo of the raiding pick up?

Mr. Hickman: We object to that on the ground that that is a conclusion.

The Court: You may answer, if you know. Do you know whether it did, or not, first?

A. Well, I never have examined the records down there to see how many they had for June to August, no.

Q. All right, was there anything else said at this last conversation you mentioned? A. I think it was in that conversation that we also advised Jay that according to the information that Glenn had that this incident concerning Scoggins had stopped.

Q. All right. Did you have any further conversation with
755] him at that time? A. Not that I recall.

Q. Now, were there ever any other meetings after that one when, -- Mr. Edmondson, where you and Glenn Brown attended, in company with Jay Jones? A. Yes, there were two -- two more.

Q. All right. Where was the next one? A. It was on September 7, 1956, in Glenn's office; that was the next one that the two of us had together with him.

Q. And was there anybody else present at that time? A. Well, there were people coming in and out of the office because that -- the reason I am able to pick the date positively was because that was the night that numerous detectives from the police department, along with deputy sheriffs and two investigators from my office conducted a raid; and the search warrant is dated September 7, 1956.

Q. And what did that conversation consist of? A. Well, we got the search warrants together and Joe called the dispatcher down at the Police Department, and told him to send --

Mr. Malloy: If Your Honor please -- just one minute: I wonder if the witness could tell, before he answered this question, what type of a raid that they are talking about? Did it have to do with whisky, or what -- just generally, that question first before I think it is competent.
756]

The Court: Overruled.

Mr Malloy: Exception.

A. He called the dispatcher at the Police Department, in Glenn's office, and told him to send five or six detectives cars to the Sheriff's office; as I recall it -- I may be mistaken on this -- he said -- asked the dispatcher there what cars were on duty, and what -- to send say Car 101, 105, 107, and so forth -- just tell them to come to the Sheriff's office. And in a little bit they showed up at the Sheriff's office. Then we took the search warrants that we had prepared that

afternoon and divided them up; there were about five or six, as I recall it, places that we intended to raid, and divided them, put one deputy and one detective; and also, in two instances, the two investigators from my office, Mr. Lang and Mr. Castle; they made up five or six raiding teams, and they left on their raids.

Q. Did Mr. Jones see those raiding warrants at that time? A. That was the first time that he had seen them.

Q. He did see them? A. Well, I don't know for sure that he examined them; he may not have seen them at all. We handed them -- I don't remember, I handed them to the officers, Hayden, or whether Glenn handed them to them -- but -- I couldn't swear to it one way or the other.

Q. Well, did you have a conversation in or near your home
757] with Jay Jones that night, or the night after? A. No, the night before.

Q. The night before? A. That's correct.

Q Did he come to your home? A. That's right, he and his wife Dorothy.

Q Did you talk in the house, or outside the house? A. In the car, in front.

Q. Would you relate that conversation to the jury, in so far as it applies to the impending raid? A. During the conversation I told him that I had received information, mainly from Johnnie Walker, of the Tulsa World, that there were places that Walker said were gambling places in Tulsa; and that he had taken me around and showed these places to me; we would drive by and he would say, Now, that is a gambling place; we would drive on to another one, that one was a gambling place. I didn't tell Jay that we had been in them to see them; I told him that there were about twenty, or twenty-one, or twenty-two of those places; and told him that the next night that Glenn and I were planning to raid on those particular places and asked him to participate in the raid. And he said that he would, and agreed to meet us at the Sheriff's office the next night about 8 o'clock, or something like that, which was the time that we met that I have already referred to.

758] Mr. Page: If Your Honor please, come now the defendants and move that this testimony respecting any gambling raid be stricken as having no probative value to the issues in this case.

The Court: Overruled. I think perhaps I should say to the jury at this point, however, because I anticipate that this same question will arise from time to time, that you should have in mind that the charge made in the indictment with which we are concerned in this case has to do only with an alleged conspiracy pertaining to liquor. That is, an alleged conspiracy to import liquor into the State of Oklahoma in violation of federal law, and to sell both at wholesale and retail without paying the special tax as required by federal law. The indictment does not contain any accusation or any charge with reference to gambling, or any other vice; and any testimony that you hear that pertains to gambling or any other vice -- and I might mention the other thing I have in mind because I think we will get to that shortly too -- and that is prostitution -- any evidence presented in that connection can only be considered, if it is in some way connected up with the alleged conspiracy to violate the liquor law. Evidence pertaining to gambling and other forms of vice is not to be considered only except and in so far as it may hereafter be connected up and shown to have some relation to the charge of the conspiracy to violate the liquor law.

759] Q. (By Mr. Crawford) Now, was this raid then conducted the night after Mr. Jones called at your home successful or unsuccessful? A. Unsuccessful.

Q. Did you and Glenn Brown then have another conversation in the presence of Jay Jones? A. Yes, we did, in December.

Q. That was on or about December 17th? A. That's correct.

Q. And where did that conversation take place? A. In my office.

Q. And what did Mr. Jones say at that time? A. Well, do you mean, you want me to relate the whole conversation?

Q. Yes, if you will, please. A. Well, I would have to say how the meeting came about.

Q. Well, how did the meeting come about? A. Jay called me the night before, at home, and asked to meet with Glenn and me; and there was some discussion about where it would be; and I told him I would call him back the next day after I had talked with Glenn. And we ended up in my office, and Jay was the one, in other words, that requested that conference because he was disturbed about raiding, he said. This was what he wanted to talk about. He told me that he was disturbed, or

760] something, about the fact that Glenn and my office were raiding inside of the City limits of Tulsa which was contrary to previous policy on the part of the Sheriff's office.

Q. And then what did the conversation consist of, Mr. Edmondson, there in your office? A. We told him that we had been -- Glenn's deputies had been raiding inside the City; and I told him that on a couple of occasions my investigators had been with them. And we told him -- we discussed that -- we discussed with him the -- some of the records of the Police Department. Glenn discussed with him the records of the amounts of whisky turned over by the City to the County, and the number of cases filed in Municipal Court -- whisky raids -- whisky cases. And following the conversation Jay acted quite disturbed about it and said that he was going to demand that he be given additional personnel to increase the raids in the City.

Q. Was that the last conversation you had with him with regard to matters of that nature? A. That's correct.

Q. Now, Mr. Edmondson, do you know the defendant Nolen Bulloch? A. Yes.

Q. Have you known him for a number of years? A. Yes.

761] Q. Has he ever offered to you or given you any money?

A. He offered a campaign contribution at one time.

Q. And where was that offer made? A. In the elevator of the courthouse -- county courthouse.

Q. And was anyone else in the elevator with you at the time? A. No, we were riding up the elevator, from, I think, either my floor to the sixth floor, or the first floor to the sixth floor, to attend a meeting that I was having up there with a bunch of high school students on Saturday morning; and Nolen was covering it for the Tribune.

Q. What did he say to you as he rode up the elevator? A. Well, to the best of my recollection it was something like this; That he asked me if I wanted a contribution from one of our friends, or a friend, or something like that, and smiled; and I told him that I didn't need it, or I didn't want it, or something like that -- I refused it.

Q. Did he show you how much the contribution was to be? A. $100.

Q. Was it a $100 bill, or composed of other amounts of bills? A. To the best of my recollection it was; but I can't be absolutely positive of it; but that is the best of my recollection.

Q. It was what? A. A $100 bill.
762] Q. And did he say at that time to the best of your recollection who the money was from?

Mr. Rucker: Objected to as leading and suggestive and repetition.

The Court: Overruled.

A. He didn't tell me who it was from; he just said, as I said a moment ago, a friend of one of our friends, or something like that.

Q. (By Mr. Crawford) Now, subsequent to that conversation -- let me put it this way: What did you say then to him?
A. After he offered this to me, you mean?
Q. Yes.

Mr. Malloy: Objected to as having been asked and answered.

The Court: Overruled.

A. I told him I either didn't need it, or didn't want it, or something like that; I don't recall exactly the words that I said; but I think that I said I didn't need it -- thank you.

Mr. Page: If Your Honor please, can I move that this be stricken -- this specific testimony, as having no probative value -- and certainly normal election activities.

The Court: Overruled.

Q. (By Mr. Crawford) Now, Mr. Edmondson, did he there-
763] after ever make known to you from whom that contribution was from?

Mr. Rucker: Objected to as leading and suggestive, calling for a conclusion -- I don't mind him asking for facts --

The Court: I don't think there is any danger of counsel leading this witness and inducing him to testify contrary to what he would otherwise testify to -- objection overruled.

A. Well, I can't say that he definitely did, no.
Q. (By Mr. Crawford) Did he ever advise you at a later date who the friend was? A. Not as such, no.
Q. Well, would you explain that answer, "not as such"?

Mr. Rucker: We object to that, if Your Honor please, calling for a conclusion and an opinion.

The Court: Overruled.

Mr. Rucker: It has been asked and answered.

The Court: I don't understand what is meant by the term "as such" either; I think he should qualify that.

A. The only thing I recall having been said was subsequent to that time, he asked me about a case that we had against Ben Bly, and made some statement to me about this man is one of those who -- I think the way he put it -- I am not absolutely positive about it, that this is one of the men who has not -- who did not contribute to your opponent's campaign. Now, there may have been something else said in that conversation but I am not absolutely positive.

Mr. Malloy: I move that be stricken, if Your Honor please; it certainly has not been tied up with the -- inference in the elevator with respect to a campaign contribution. There is no connection whatsoever in this answer with respect to the original questions relating to the campaign contribution in the elevator.

The Court: Well, that is a matter of argument; and it would be a matter to be considered by the jury to determine that -- whether there might be any connection.

Mr. Malloy: I thought Mr. Crawford asked if he had any discussion relative to that particular contribution before.

The Court: Your motion is overruled.

Mr. Malloy: Thank you.

Mr. Crawford: If the Court please, I am not sure with

regard to the answer the witness gave to my last question. May I ask him to repeat that, or have the reporter read it.

The Court: Have the reporter read it.

(Thereupon the Reporter read the last answer.)

Mr. Crawford: You may examine.

Cross-examination by Mr. Rucker

Q. Mr. Edmondson, how long have you been county attorney? A. Since November of 1954.

Q. Now how many -- how long were you in the County attorney's office prior to that? A. January 1953.

Q. How long have you known Nolen Bulloch? A. Oh, I knew him as a casual acquaintance for three, four or five years prior to that time.

Q. Well, that would run up to what, seven or eight years, you have known him, entirely? A. That's correct, something like that.

Q. As a political reporter, I guess he would be considered a political, or crime reporter. A. That's right.

Q. You have had innumerable conversations with him, haven't you? A. That's correct.

Q. Would you say they would run into literally the hundreds? A. At least.

Q. Maybe thousands? A. Well, I mean he was on the
766] courthouse for periods of time, for months at a time; in fact when I went to work up there he was on it for four or five or six months and then he always parked his car in the courthouse lot, and when he would get off work he would generally stop by every day almost, and come by to talk.

Q. Mr. Edmondson, generally every time you were talking to him was it on the subject of politics or something in connection with a campaign -- future or possibly of the past? A. That's correct, or cases in our office, one of the two.

Q. Or cases in your office? A. That's right.

Q. So it wasn't unusual for him to be talking to you as I understand he has hundreds and hundreds of times, about political races, any information he could get on it and cases in your office, is that right? A. That's right.

Q. Now you have been county attorney yourself how many

years? A. A little over two years.

Q. And prior to that you were chief prosecutor? A. For Bob Wheeler, who was county attorney, that's right.

Q. For how many years? A. Nearly two years.

Q. I am not calculating very well, -- how many years have
767] you been there, either chief prosecutor or county attorney?

A. About four years and four months.

Q. A little over four years. Mr. Edmondson, during all that period of time in all of the hundreds of conversations that you have had with Nolen Bulloch, has he ever at any time interceded on behalf of any bootlegger or any criminal, asked to help them out, reduce his sentence, or do anything of that character? A. No, sir.

Mr. Rucker: That's all.

Cross-examination by Mr. Hickman

Q. I want to ask you some things, Mr. Edmondson, about your conversations with Jay Jones.

As I understand it the first conversation that you had occasion to have with Jay Jones was after he was elected to office and took office in May of last year, is that right?
A. That's right.

Q. And that was shortly after he had assumed office?
A. I think it was in June, Frank.

Q. Probably a month after he had taken office or a month and a half. A. That's right; he took office in May.

Q. And did that have to do with the situation on North Greenwood or North Peoria with reference to some negro --

A. That's correct.

768] Q. In other words, you had received information about something --

The Court: I was about to caution you with reference to the information because the person mentioned is on trial.

Mr. Hickman: I know that.

The Court: So don't go into the question of what the information was.

Mr. Hickman: No, I'm not going to.

Q. (By Mr. Hickman) I am asking you if there was some information that you had given him to look into, is that right? A. That's in substance correct.

Q. And then that situation, after you informed him of that was remedied. A. That's right.

Q. Now then did you have occasion as county attorney prior to May 1956, to do these same things with reference to suggestion, conferences, recommendations to Mr. Jones' predecessor, John Henderson, during the two years he was police commissioner. A. That's right.

Q. In other words, you and the sheriff would confer with him? A. That's right.

Q. Call his attention to some things that he probably didn't know, but you had found out about. A. And vice versa, that's right.

769] Q. Yes, sir. Now did Mr. Jones always show a willingness to cooperate with you? A. He always stated that he didn't know that the condition existed and that he would do something about it.

Q. Of course you knew that his office was in the city hall? A. Yes.

Q. Not in the police station or the fire station? A. That's right.

Q. And that he was one of the commissioners on the Board of Commissioners of the City of Tulsa? A. That's right.

Q. Now, with reference to this raid that you say was made either the 7th or 17th of September, of last year, did you have any intimation, Mr. Edmondson, of whether or not -- did you have any knowledge I mean that any gambling was going on in places that this man Johnny Walker, world photographer, pointed out to you? A. The only knowledge that I had -- what do you mean by knowledge, Frank?

Q. Did you see any violations of law going on in these places? A. No.

Q. You did not? And following that information that you got, being told that there was gambling in these places, you conferred with Jay Jones at his home? A. No, no, --

770] following that I talked with my investigators about it, and then Jay and Dorothy came by my house and we had a conversation about it.

Q. Well, you and Dorothy Jones were friendly, weren't you? A. That's right.

Q. There was nothing unusual about their coming by your

home was there? A. Been by there many times.

Q. You have been by their home too? A. That's right.

Q. Now then, Mr. Edmondson, what I want to know is, who selected the locations described in the search warrants of the five places that you planned to search? A. Well, either Glenn or I or both of us together.

Q. You didn't take Jay Jones in on the locations of the places you were going to raid that night? A. He didn't even ask us; we didn't take him in the place -- I don't understand.

Q. You didn't take him in; you did not inform him on the locations of the places that you and the sheriff planned to raid? A. He didn't even ask us.

Q. And when they started out, on these raids, isn't it your testimony that he didn't even then ask where these officers were going? A. Well, I don't remember it coming up; we just gave them the warrants, and told them to go on. A few of
771] them may have said -- I don't remember -- where is this place; if they couldn't tell by looking right on it they may have said something to us about it. But I know that all of them didn't I don't remember specifically any of them saying that.

Q. Well, did Jay ever ask you or suggest to you in any way that he would like to know the names and addresses of the places that you planned to raid? A. Not that I recall.

Q. How many times did you have up with John Henderson the matter of making raids or -- raids by the vice squad of the City of Tulsa? A. How many times did I discuss that with him?

Q. With John Henderson while he was police commissioner, about stepping up the raids by the vice squad of the City of Tulsa? A. On more than one occasion; I don't know -- I don't remember how many times, Frank, but I would assume two or three times, maybe four.

Mr. Hickman: Maybe four times -- that's all.

Cross-examination by Mr. Malloy

Q. Mr. Edmondson, I believe you testified that your last conversation with Mr. Jones and Mr. Brown occurred in your office?

A. That's correct.

772] Q. And around in December of 1956? A. I think it was December 17, -- 16 or 17 -- the one that Mr. Crawford --

Q. And was this the one in which Mr. Jones was complaining as to the county making certain raids, you testified to, within the city limits? A. That's right.

Q. Objecting to the policy which had been previously established as to the jurisdictional policy, between the city and the county, isn't that right? A. That's right.

Q. Now, hadn't that policy more or less been developed as a result of what was, at least reported during the Henderson administration, of a squabble, you might call it, between the office of the sheriff's office, and Mr. Henderson, in which you had been making some raids and some -- within the City, and Mr. Henderson was objecting, and it was more or less decided as a matter of policy, that matters within the City would be left to the City Law Enforcement Agencies and the County to the County? A. There had been an argument or discussion about that with Mr. Henderson.

Q. And then there had been a meeting and it had been ironed
773] out, based upon sort of an established policy at least a general policy, I don't mean to say that you are just going to -- A. That's right.

Q. Just a general policy? A. That's right.

The Court: Any redirect?

Mr. Crawford: If Your Honor please, I would like to excuse this witness at this time and recall him at a later date if I may.

The Court: You may be excused.

GLENN BROWN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Glenn Brown? A. That's correct.

Q. Mr. Brown, you are now serving as the County Sheriff for Tulsa County, Oklahoma, is that correct? A. That's right.

Q. You are in your second term of office? A. That's correct.

Q. Mr. Brown, you know the defendant Jay Jones, do you
774] not? A. I do.

Q. You, Mr. Brown, in company with Mr. Edmondson, or at least in the presence of Mr. Edmondson, have had conversations during the past fifteen or sixteen months with the defendant Jay Jones, have you not? A. That's correct.

Q. Do you recall where the first of these conversations took place? A. Well, the first one -- the conversation I had with Mr. Jones was by myself; I met Mr. Jones in the hallway in the courthouse one day and we had received certain reports concerning some activity in the Greenwood area which I wanted to ask him if he would come in and talk with me about it, which he did. I mentioned to him that we had received reports in our office that there were certain people in the Greenwood area who were trying to organize into some little group and I wanted him to be apprised of the information. He said he thanked me for the information and would do something about it. The next -- this first conversation happened along the first part of June of last year. The information kept coming in to the office concerning these reports of organization over there so that the latter part of June of last year, which was just after the city and county run-off primary, Mr. Edmondson and I contacted Mr. Jones and asked him if he would meet with us in our office in the county courthouse which he agreed to do and did. At
775] that time Mr. Edmondson and I again discussed with him the information which we had received concerning a man by the name of Scoggins in the Greenwood area, attempting to organize a take-up --

Mr Page: If Your Honor please, -- just a moment --

The Court: Don't state what the information was.

A. Yes. We discussed this information with him and at that time he again gave us assurance that he was going to do something about it and in fact at that time he picked up the telephone and called his chief of police, Paul Livingston, at that time and repeated our conversation to him then and asked him to go to work on it. The information kept coming to the office during July, and the first part of August we again asked to have a meeting with Mr. Jones because we had received additional information. And at that time our information had changed and it appeared that the information concerning the

Greenwood area had more or less ceased and it had transferred over to the south and was in this part of town over here. He again gave us his assurance that they would take some positive and immediate action on it. However, we continued to have additional information of this type coming to our attention, and because of this we decided that we would do some raiding of our own. And on September 7 the County Attorney's office and my office prepared several search warrants, aimed at certain
alleged gambling places in the City of Tulsa. We also
776] asked Mr. Jones to come to our office that night, which
he did, and called certain police officers who came over and accompanied the county officers; they were divided up, city and county officers in each group. The raids were non-successful. After that we had no further meeting with Mr. Jones until on --

Q. (By Mr. Crawford) Now just one moment there, Mr. Brown. You stated the raids were unsuccessful. The night before the raids were conducted did you have occasion to listen to police radio? A. That's correct.

Q. Could you determine from those radios, activities -- physical activities of certain police officers? A. Yes, a large part of the places which we had warrants for at that time -- we had a code signal which you may not be familiar with where a car is ten-seven for a few minutes, he is out of receipt; ten-six, back in. That is a code of the radio frequencies in this area; we hear in our monitor system, and several police cars, the numbers of which I do not recall, had stopped at several of these places during that afternoon; they would go ten-seven for a few minutes, then they would be back in the car. That was heard and called to my attention by my radio operator.

Mr. Hickman: Move to strike that if the Court please,
777] on the ground that it is pure hearsay.

The Court: Sustained.

Mr. Hickman: Ask the Court to admonish the jury not to consider it.

The Court: It will be ordered stricken and the jury should not consider the testimony for the reason that it is hearsay as to Mr. Brown, information given to him by his --

A. Might I add that he called this to my attention, Your

Honor, and I went into the radio room, next to my office, I did hear some of it myself.

The Court: Then I take it all back.

A. I didn't make myself clear. He called it to my attention; I stepped into the next room and heard it myself.

The Court: The motion to strike the evidence will be overruled.

Q. (By Mr. Crawford) Now, Mr. Brown, you say you had no further conversations with the defendant Jay Jones? A. Not until December 17 when I was contacted by Mr. Edmondson, and he phoned me that Mr. Jones had contacted him and asked that he arrange a meeting for the three of us, which we did. If I recall that was on Monday afternoon, and Mr. Jones came to the County Attorney's office and I appeared up there, and the gist of that conversation was that Mr. Jones was unhappy about the fact that we had been raiding in the city and was wondering why we had and so forth, and we reiterated our stand, previously, that we had received these complaints, and naturally, as
778] a law enforcement agency we felt it necessary that we take the action that we did. We also pointed out to him that he should check his own records in the police department which would show him and substantiate to him why we probably were receiving these complaints; by that I mean that the amount of whisky which had been recovered by the police department and turned to the sheriff's office for resale had materially decreased; also that the amount of -- the number of cases filed in the Municipal Court had materially decreased during that period of time.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Mr. Brown, how did you know where police cars were located by listening on your radio? A. Mr. Hickman, when a car goes ten-seven they give the location that they are out of service, or if it is necessary for their headquarters to contact them, they can be located.

Q. Well, what did you hear in all these radio calls, say,

with reference to location? A. Well, at that time we had -- we had talked about and prepared several warrants.

Q. Who got the warrants out? A. The County Attorney's office and my office.

779] Q. Who, what men that selected the locations, what places to raid? A. We did.

Q. You and Mr. Edmondson? A. That's right.

Q. You did not indicate to Mr. Jones and tell him where you were going to raid? A. I did not, personally, no, sir.

Q. And so far as you know he wasn't advised of the locations where you were going to raid that night? A. Yes, I believe he was.

Q. When? A. The county attorney advised me that he had discussed the night before with Mr. Jones pertaining to that.

Q. As to what places they were going? A. No, just the group of places, the type.

Q. Oh, just gambling places? A. Right.

Q. That is what it had reference to? A. That's right.

Q. And when did you choose these locations, you and Mr. Edmondson, as to the places that you would raid that night? A. That night as we passed the warrants out we just picked, I believe it was five or six places out of the group, and handed them to the officers; none of the officers themselves at the time knew which places they were going to.

780] Q. Neither your officers nor Mr. Jones' officers? A. That's right.

Q. They didn't know -- A. Not the specific place, that's correct.

Q. Who did know besides you and the County Attorney? A. The person who typed them up, one of the secretaries in his office.

Q. The person in the -- the secretary or typist, in his office? A. Yes, I believe it was Mrs. Miller.

Q. And who else knew it? A. Well, naturally the Judge who approved the search warrants and the clerk's office, who took the affidavits of search to be filed.

Q. How many persons were in the clerk's office? A. Now that I don't know, Mr. Hickman.

Q. Did you get the warrants, or did Mr. Edmondson? A. Mr. Edmondson.

Q. Who swore to these warrants? A. That I couldn't answer.

Q. You did not? A. I did not, no, sir.

Q. Did you go on this raid yourself? A. I did not. Mr. Jones, Mr. Edmondson and myself remained in my office; we were there together all the time.

781] Q. All the time that the officers -- A. Right.

Q. When they returned they reported that they didn't see anything, is that correct? A. That's right.

Q. Had you been in any of these places before and knew that there was gambling going on? A. I had not, no, sir.

Q. You did not? A. That's right.

Mr. Hickman: That's all.

Mr. Malloy: Just one or two questions, please.

Cross-examination by Mr. Malloy

Q. Do you know, Mr. Brown, who actually took the search warrants to the Judge for the purpose of obtaining the issuance of them? A. No, sir; I do not.

Q. That might have been members of your department? A. Or Mr. Edmondson.

Q. Either one? A. That's right.

782] Q. So that would enlarge the number of people who might have known where the raids would be? A. There were several people who knew where they were going to be, yes, sir.

Q. Was deputy Bliss active in this particular raid? A. He was one of the men who was present, yes, sir.

Q. Do you know whether or not he was one of those who obtained the search warrants? A. He was in Mr. Edmondson's office in the afternoon we were preparing them, was assisting those.

Q. Officer Pruitt from your office. A. Right.

Q. Officer Bliss and Officer Pruitt knew where they were to be, didn't they? A. That's right. I think Mr. Lang was in the office if I remember correctly of the County Attorney's office.

Q. Do you remember that any member of the Police Department that was in the office when these warrants were being obtained? A. No, sir, they weren't.

Mr. Malloy: That's all.

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Redirect Examination by Mr. Crawford

Q. Do you recall any of those locations, Mr. Brown? A. No, sir, I don't offhand, sir.

783] Mr. Crawford: That's all.

Mr. Hickman: Let me ask one more question, Glenn, please.

Cross-examination by Mr. Hickman

Q. They asked you to recall the particular locations, as Mr. Crawford asked you; have you since raided these places? A. We have.

Q. Have you found gambling? A. We have on a few occasions, yes, sir.

Q. When? A. Again I can't recall the exact dates, as to the times.

Q. But not always? A. No, we haven't.

Q. You can't recall the five places that your office raided that night? A. No, sir, I could get the information for you if you want it because it is a matter of record. But I don't recall myself.

Mr. Hickman: I see. That's all.

784] JOHN BILL EDWARDS, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. You are John Bill Edwards and you have previously been sworn and testified, is that correct, sir? A. Yes, sir.

Q. Now, Mr. Edwards, I want to first review any convictions you have had for liquor violations throughout your lifetime; would you tell the jury, please, at this time. A. Yes, sir; you want them all?

Q. Convictions -- yes, we may as well have them all now. A. All of the charges or of the convictions.

Q. All the convictions. A. Well, let's see, in -- on the third month, the 8th day, '48, I was convicted of liquor

possession, first offense, which is a misdemeanor, thirty days and fifty dollars. On 2-14, and '49, liquor possession, second offense, six months, and $300. On 10-3 and '50, liquor possession, second offense, three months, $250. That's all I have listed here. And I had a conviction in Claremore -- I got thirty days suspended and fined, $100. That was in '54 I think.

Q. Mr. Edwards, you also got in some difficulty when you were about eighteen years old, did you not? A. That's right.

Q. How old are you now? A. Forty-three.

785] Q. And you were convicted when you were eighteen years old? A. Yes, sir.

Q. What was the charge? A. Second degree burglary.

Q. Do you know the defendant Johnny McAfee? A. Yes, sir.

Q. Do you know the defendant Jack Gott? A. Yes, sir.

Q. Do you know the defendant Jay Jones? A. Yes, sir.

Q. Are there any of the defendants you don't know? A. No, sir.

Q. I want to direct your attention to sometime the latter part of March 1956 and ask you if at that time you had occasion to meet with Charles Hirrlinger and Jay Jones? A. Yes, sir.

Q. And where did that meeting take place? A. That was at Charlie Hirrlinger's home on the north edge of Turley.

Q. Will you tell this jury what happened at that time. A. Yes, sir, we were to meet Jay out there at 9 o'clock that night; it was on or about the 30th day of March. I am almost positive it was March 30th. And of course he was late,

786] and wanted money of course.

Q. And what did he say to you? A. When he --

Mr. Hickman: If the Court please, we move that that be stricken -- he wanted money of course.

The Court: Yes, that will be stricken and the jury is admonished not to consider it. You should simply relate the conversation that took place.

A. All right, sir.

Q. (By Mr. Crawford) Now will you please relate the conversation, Mr. Edwards, that took place at that time.

A. Well, we -- we visited for thirty or forty minutes and talked about the whisky business and the gambling business and the prostitution business and what we could do about it, how we could

make any money out of it --

Mr. Hickman: If the Court please, --

Mr. Page: We move it be stricken as highly prejudicial.

Mr. Hickman: We move to strike that on the ground that it is the witness' conclusions on the conversation and not the relation of the conversation.

A. I can't remember it word for word.

The Court: Overruled -- overruled.

Q. (By Mr. Crawford) You may continue.

The Court: What you should do, Edwards, is to relate
787] the substance of the conversation as best you can remember it.

A. Well, the substance of the conversation is, Jay needed money.

Q. Did you give him any money?

The Court: What was said; I want to know the substance of what was said, by whom and to whom.

A. Well, Jay was talking to myself and to Charlie Hirrlinger and he said, he had some radio and television commitments, and it was only three or four days before election; that he needed some money to fulfill his obligations. So that night I gave him $550 and Charlie gave him $150, which made $700 and that was the first time that I had met and given Jay any money in person and he promised me that night, he shook my hand, that if he was elected I would be in control of the whisky business in the City of Tulsa.

Q. (By Mr. Crawford) Now prior to that time had you had occasion to meet with the defendant Johnny McAfee? A. Yes, sir.

Q. And where did you meet him? A. At my home.

Q. And when was that to the best of your recollection? A. I believe -- Jay was elected in April, wasn't he?

Q. April 3rd, according to the Government's Exhibit No. 1.

A. All right. Johnny came to my house with Charlie Hirrlinger about six weeks before the election -- maybe two months.

Q. And what did Johnny say to you at that time -- that
788] is, Johnny McAfee? A. Well, Mr. Crawford, I don't remember exactly what he said to me. Of course the discussion was -- between the three of us was how to set this --

Mr. Page: If Your Honor please, I am going to object unless he specifically states what the conversation was.

The Court: Let meexplain, you are not of course expected to be able to remember the conversation verbatim, but as best you can relate the substance of the conversation, what each person said to the other.

A. Well, I think that would be an impossibility.

The Court: Or the gist of it.

Mr. Crawford: May I ask him what the topic was, to approach it that way.

The Court: Well, you may try that.

Q. (By Mr. Crawford) What was the topic of that conversation? A. This protection racket that we set up.

Mr. Page: If Your Honor please, I am going to object to that as being highly prejudicial, no predicate laid for that answer.

The Court: Overruled.

Q. (By Mr. Crawford) Subsequent to March 30, 1956, I
789] direct your attention to the month of May and ask you if during the month of May you had occasion to meet with Jay Jones, Paul Livingston, Jack Gott, Charles Hirrlinger and Johnny McAfee. A. Yes, sir.

Q. And where did that meeting take place? A. Charlie Hirrlinger's home.

Q. Was it in the afternoon or the night? A. It was at night.

Q. Did you recall the approximate time? A. Yes, sir,

it was after dark, but soon after dark.

Q. Were there any persons present at that meeting other than those I have mentioned? A. No, sir.

Q. Do you recall approximately the time, the date in May that it may have been; was it near the middle of May, the end of May or early May? A. It was after the middle of May; I would say it was in the latter part of May.

Q. Now, did a discussion take place at that meeting? A. Yes, sir.

Q. At that time Jay Jones was serving as the police and fire commissioner for the City of Tulsa, was he not? A. Yes, sir.

Q. And Paul Livingston was the duly appointed Chief of
790] police for the City of Tulsa, was he not? A. Yes, sir.

Q. And Jack Gott was a member of the vice squad of the City of Tulsa? A. He was a member of the tavern detail.

Q. Which was a part of the vice squad, or do you know? A. Well, I don't know; he never did actively take part in the vice squad, the liquor and gambling detail, he was a member of the taverns detail.

Q. Will you relate to this jury, to the court, the substance of that conversation had in May? A. Yes, sir, the substance of the conversation concerned this protection fix thing, that we set up.

Q. And who was to take charge of the whisky operations? A. Myself.

Q. And who was to take charge of the gambling operations? A. Johnny McAfee.

Q. Who was to take charge of the prostitution activities? A. Charlie Hillinger.

Q. Was it agreed how the moneys would be split up? A. Yes, sir.

Q. Now prior to that meeting had you had a conference with Jay Jones, Charles Hirrlinger and Johnny McAfee where the four of you had agreed how the money should be split up? A. Yes, sir.

Q. And how were the moneys to be split up prior to this
791] meeting in May, 1956? A. After all expenses were paid --

Mr. Rucker: We object as to any person who was not there, to any conversation with reference to any person who was not there.

The Court: The jury should of course constantly have in mind the statement made repeatedly that this evidence is to be considered only against the persons to whom it related.

Q. (By Mr. Crawford) All right, how were the moneys to be split up prior to this meeting in May, 1956?

Mr. Malloy: Object to this answer until the witness states where the meeting was had and who was present.

The Court: I think that is a proper objection.

Q. (By Mr. Crawford) All right, where was that meeting, the one where you, McAfee and Hirrlinger met with Jay Jones.
A. We had so many meetings, Mr. Crawford, that I can't truthfully say.
Q. Well, do you recall where one of them was where it was discussed? A. Before the actual split that was decided on developed?
Q. Yes. A. No, sir, I can't.
Q. Did you have any discussion with Johnny McAfee or Charles Hirrlinger prior to this meeting in May? A. Yes, sir.
Q. And did you discuss with them how the money was to be
792] split prior to this meeting in May? A. Yes, sir.

Mr. Malloy: Object to that for the same reasons unless this witness states where this meeting took place and the approximate date.

Mr. Crawford: I am endeavoring to do that, Your Honor.

The Court: Well, get to that, if you can.

Q. (By Mr. Crawford) Where were any of these meetings you had with Charles Hirrlinger or John McAfee? A. Well, two of them were at my home -- I met with Charlie Hirrlinger first at my home by himself; the next meeting there Charlie brought Johnny with him.
Q. That is Johnny McAfee? A. Yes, sir.
Q. Was it discussed at that time how the money was to be split? A. Yes, sir.
Q. And that was sometime in March or earlier? A. I believe it might have been in February.

Q. All right. A. Maybe the latter part of February.
Q. What did Johnny McAfee say in your presence and in the presence of Charles Hirrlinger with regard to how the money was to be split up at that time?

Mr. Page: If Your Honor please, that's leading and
793] suggestive.

The Court: Overruled; you may answer the question.

A. The split that we decided on at the original agreement, that we made, was that after all expenses were paid Jay Jones would get fifty per cent and the three of us would get fifty per cent.
Q. You would split among the three of you fifty per cent, is that correct? A. Yes, sir, -- yes, sir.
Q. Now did you ever define, or have defined for you, what was meant by expenses? A. Yes, sir.
Q. What were those expenses, please? A. Well, we anticipated to put Paul Livingston on a salary of $500 a month over and above his police salary; we intended to pay each vice squad member $200 a month over and above his police salary.

Mr. Malloy: I am going to object to this testimony as -- Edwards and Hirrlinger alone, or with McAfee there, or who was supposed to be there and what date and when?

The Court: Overruled.

Mr. Malloy: Exception.

Q. (By Mr. Crawford) How many members of the vice squad was -- A. There was another expense; do you want it?
Q. What was the other expense? A. There was a mystery
794] man.
Q. How much was he to receive? A. $500 a month.
Q. Did you determine who the mystery man was? A. We never could get Jay to tell us who he was.
Q. All right now, let me bring you back to this meeting in May at the home of Charles Hirrlinger, where the five individuals were present that you have testified to; who did most of the talking at that meeting? A. There was six of us.
Q. Well, did any one person do more talking than the other? A. Oh, yes, sir, Paul Livingston directed the meeting.

Q. Were the percentages of split agreed upon at that time? A. No, they were revised pretty drastically.

Q. And did Paul tell you how they were revised? A. Yes, sir.

Q. How did he say they were revised? A. After all expenses were paid Jay was to get forty per cent, Paul Livingston was to get twenty per cent, Jack Gott was to get twenty per cent, Nolen Bulloch was to get ten per cent.

Mr. Rucker: Your Honor, we object to that because there is no evidence Nolen Bulloch was either thereor in the conspiracy at that time, up to this time.

795] Mr. Crawford: Oh, --

The Court: Overruled.

A. And the three of us, Charlie Hirrlinger, Johnny McAfee and myself had ten per cent to split among us, and that is what we got.

Q. Did you object to that revision, Mr. Edwards? A. I sure did, but it didn't do me any good.

Q. Did Paul or Jay say anything to you when you objected? A. I objected; I turned to Jay, and I said, Jay that is not the agreement we had, is it; he wouldn't even look at me, just hung his head and said, Paul is doing the talking.

Q. Did Paul say anything about why Nolen Bulloch was to get ten per cent? A. Yes, sir.

Q. What did he say? A. To keep the newspaper heat off of us.

Q. Did he say anything about whether he had ever paid Bulloch money before?

Mr. Rucker: Objected to as hearsay and too remote.

The Court: It is hearsay, and any testimony with reference to Nolen Bulloch of course is not be be considered by the jury because he wasn't present; they were not statements made in his presence; unless other testimony presented in the case is sufficient to establish that Nolen Bulloch became a member of the conspiracy the evidence is not material as against Nolen Bulloch to establish that he became a part of the con-
796] spiracy; it can only be considered as to him in the

event there is other evidence -- competent evidence to satisfy you that he did become a party to the alleged conspiracy -- if you find that there was a conspiracy.

Mr. Rucker: We object to it for that reason at this time.

Mr. Shortridge: May I ask the Court to make the same ruling as to all defendants who were not present? Of course --

The Court: Of course that is the same thing I told the jury time and time again.

Mr. Shortridge: Well, Your Honor, but one was emphasized.

The Court: Well, just the one to whom specific reference was being made. That's the reason I placed emphasis on it.

Mr. Crawford: Would you read the question please.

(Thereupon the Reporter read the question.)

A. Yes, sir, he said he had.

Q. And do you recall exactly what he said? A. He said that he and Nolen Bulloch split fifty-fifty what they made.

Q. All right now, under this arrangement at the meeting there was it discussed how the protection fix as you call it was to operate? A. Yes, sir.

Q. And how was it to operate? A. I was to contact
797] these bootleggers -- I am speaking for my part of it --
I was to contact these bootleggers and to let them know that I could help them if they needed some help in getting along in their business; and if they didn't cooperate with me by paying me $200 a car -- $100 a car, or a minimum of $200, then they were reported to the vice squad and those boys were to be picked up, and the boys that paid me, their cars, and the types of cars they drove, the license numbers of the cars, they was reported to the vice squad and those boys had free range; they wouldn't be picked up.

Q. Now how was the gambling aspect of the agreement to work?

Mr. Page: If Your Honor please, again I object to that as having no probative value.

The Court: Objection overruled.

Mr. Page: Tends to prove or disprove no issue in this case.

The Court: Overruled; I think this would be a good point at which to take a recess for fifteen minutes.

* * * * *

Q. (By Mr. Crawford) I asked you, Mr. Edwards, how the gambling aspect of the agreement was to be handled. A. Well, Johnny was more familiar with the gamblers than Charlie
798] or myself.

Mr. Page: If Your Honor please, I move to strike that unless he states any conversation that he might have, not any conclusions that he may have drawn.

The Court: Yes, just relate the conversation, if you will, Mr. Edwards.

A. Johnny just said he didn't want to pick up from the gamblers because he was a gambler himself, and --

Mr. Page: Comes now the defendant and moves for a mistrial

The Court: Motion overruled.

Mr. Page: Comes now the defendant and moves that that answer be stricken as certainly being prejudicial, and the defendant's character and reputation has not been at issue.

The Court: Overruled.

Mr. Page: Exception.

Q. (By Mr. Crawford) That is what Johnny actually said to you, was it not, Mr. Edwards? A. To me and Charlie.
Q. There at the meeting? A. Yes, sir.
Q. All right, and did he say anything else? A. Well, we decided -- the three of us, that it would be better for Hirrlinger to pick up the money from the gamblers.

799] Q. All right, was it decided that money would be picked up from the activities of prostitution? A. Yes, sir.

Q. And who was to pick up that money? A. Hirrlinger.

Q. Did you disucss the composition of the vice squad? A. Yes, sir, we had a -- night of the big meeting, the first big meeting we had, there was quite a bit of discussion, round-table discussion by all of us who we would -- who would compose the vice squad, who we would appoint or whether we would keep any of the ones that were on there and it was suggested that it would be --

Q. Now, who suggested it? A. Jack Gott.

Q. What did he say? A. He suggested it would be a pretty good idea to keep Carter and Bruner, maybe not both of them, at least one of them --

Q. Carter and Bruner were police officers at that time? A. Yes, sir, they were on the vice squad at that time.

Q. All right, was there any further discussion with regard to the prospective members of the vice squad or anybody mentioned a person by name other than Carter and Bruner? A. I don't believe there was ever, if there was I don't remember; we talked a long time.

Q. All right. Now did Paul Livingston express his
800] preference for the members of the vice squad? A. No, I don't think so, but he participated in our discussion of various men that we talked about; who might be -- may -- or might do what we wanted them to do.

Q. Did he at any other time in your presence state his preference for the composition of the vice squad? A. Well, I don't know whether Paul Livingston did or not but we -- it was agreed finally -- a vice squad was agreed upon.

Q. All right. A. But I don't know whether Paul Livingston had a leading role, in any one particular vice squad appointment.

Q. Now, Mr. Edwards, directing your attention to June of 1956, did you attend another meeting at the farm of Charles Hirrlinger? A. Yes, sir.

Q. Now is that a location different than the home of Charles Hirrlinger? A. It is a mile and a half, maybe two miles farther north of Turley.

Q. Do you recall approximately when in June that meeting took place? A. No, sir, I don't. We had -- practically all of our meetings were in June; the biggest part of them were in June. And I just don't know what time -- what date.

801] Q. Would it be early in June then, before the middle of June? A. Oh, yes, -- let's see, it would be in the first part of June.

Q. All right now, who attended that meeting at Charles Hirrlinger's farm? A. Jack Gott, Paul Livingston, Jay Jones, Johnny McAfee, Charlie Hirrlinger and myself.

Q. And what were the main topics of the meeting? A. There was two: Martin Edwards was one of them and the mystery man was the other.

Q. What conversation took place to the best of your recollection about Martin Edwards? A. Paul Livingston insisted -- at this time I was supposedly in charge of the whisky business in Tulsa. Paul Livingston insisted that I let Martin Edwards come in.

Mr. Malloy: Wait just a minute. I may be mistaken but I don't believe he stated the time; he stated a place but I don't believe he stated a time.

The Court: Yes, he said early in June, Mr. Malloy.

Mr. Malloy: That's all right.

A. After dark.

Mr. Malloy: Thank you.

Q. (By Mr. Crawford) You may continue, Mr. Edwards. A. Well, I don't remember what I said -- where was I --

802] The Court: You were talking about Martin Edwards.

A. I know, but exactly where did I leave --

The Court: Read the witness' answer.

(Thereupon the Reporter read the answer so far as given.)

A. Yes, sir, he insisted so strongly that he demanded a vote.

Q. (By Mr. Crawford) A vote among those present? A. Yes, sir.

Q. At that time you had not permitted Martin Edwards to come in, is that right? A. No, sir, -- no, sir, -- and I told him as long as I was in control of the whisky situation he wouldn't get in.

Q. All right, and when this vote was taken how did each member there vote? A. Paul Livingston, Jack Gott and Johnny McAfee voted to let him in.

Q. Did Jay Jones vote? A. Jay Jones and Charlie Hirrlinger didn't vote.

Q. You voted against, is that right? A. I voted to keep him out.

Q. All right, as a result of that vote was Martin let in? A. No, sir. When -- after the vote was completed I told them then if Martin comes in I go out. I said, now you have just got to make up your minds which one you think will help you the most or hurt you the most; I will have no part -- no part of
803] this conspiracy with Martin Edwards.

Q. All right now, what was the conversation with regard to the so-called mystery man? A. Well, that was the first time Paul Livingston had heard of the mystery man; he was pretty shocked; that was $500 that he wasn't going to get.

The Court: Tell us what the conversation was.

A. Well, we were -- Charlie Hirrlinger, Johnny McAfee, and myself were trying to find out who he was, and Jay absolutely refused to tell us, -- or -- all he did say was, he was a lawyer, but that is as far as he would go.

Q. He never did divulge his name? A. Never.

Q. At that time was the mystery man still cut in for $500 a month? A. Yes, sir.

Q. All right now, did you have another meeting in June where only you and Paul Livingston were present, near the Mohawk Amusement Park? A. Yes, sir.

Q. Did that meeting take place in the day time or the night time? A. That was in the day time.

Q. How soon after the meeting at Hirrlinger's farm did
804] that meeting take place? A. The best I can remember, just a few days.

Q. And did you arrange for the meeting or did Paul Livingston arrange for it? A. I don't remember who made the -- who made the -- the arrangements for the meeting, but we both knew what we were meeting about.

Q. Did you drive in separate cars? A. Yes, sir.

Q. And whereabouts did you park? A. Well, we parked just a little ways, and a little north of the park, of course we were -- it was a parking area there, with cars parked around us and behind us and we talked in Paul's car.

Q. All right then, will you relate to the best of your recollection the substance of that conversation with Paul Livingston. A. Yes, sir, I had a liquor possession case pending in the County Court, and it looked like a pretty tough case and I thought I needed some help and Paul Livingston had told me that he could help me. And said he would let me know, that's why we were meeting at Mohawk Park. And when I -- when I met him, got in his car I asked him, could he help me, and he said, Yes. And I said, Well, what is it going to cost me? He said, three or four hundred dollars. Well, I said, if you put it that way I will just give you three hundred. So I did
805] give him $300 to help me in this case in the County Court.

Q. Did he say who was going to help you in the County Court. A. Yes, sir.

Q. Who was that person? A. Nolen Bulloch.

Q. Now, subsequent to that meeting at Mohawk Park did you have another meeting with Paul Livingston during June of 1956 in the vicinity of 15th and Peoria? A. Yes, sir.

Q. And did that meeting take place in an automobile? A. It took place in Paul's car.

Q. Was this his private car or police car? A. I believe it was a police car; it was a Ford.

Q. And where was the car parked in the vicinity of 15th and Peoria? A. Just south of 15th and Peoria, on the west side of the street; he was headed south.

Q. Was this meeting in the day time or the night time? A. Day time; it was at the noon hour.

Q. All right, what was the topic of that meeting? A. Martin Edwards.

Q. And what did Paul say? A. Paul was still insisting
806] that I let him come in.

Q. And what did you say to Paul? A. What I told him before; I didn't intend to let him in as long as I was in charge of the whisky business.

Q. All right now, Mr. Edwards, subsequent to that meeting at 15th and Peoria, did you in June have another meeting with Paul Livingston in the vicinity of a bowling alley on South Main? A. Yes, sir.

Q. Did that meeting take place in the day time or night time? A That was at night; he was bowling that night -- it was raining.

Q. Did you call him or he call you? A. I called him earlier in the evening and he said he should go bowl that night, he would meet me at the bowling alley, and I think it was 9 o'clock.

Q. Where did your conversation with him take place? A. He got in my car and we drove around the corner.

Q. What did you talk about at that time? A. Martin Edwards.

Q. What did he say? A. He wanted Martin in.

Q. Did you agree to let Martin in? A. I sure didn't.

807] Q. All right now, Mr. Edwards, did you have occasion to have a meeting during June near the Pines Theatre, on North Cincinnati, in the City of Tulsa? A. Yes, sir.

Q. Who was present at that meeting? A Paul Livingston and myself.

Q. And what was the topic of that conversation? A. It was about Theopolis Scoggins, and two vice squad members in the colored part of town, Hunter and Stephens.

Q. Had Hunter and Stephens been assigned to the vice squad at that time? A. Yes, sir.

Q. Is that the same Stephens as the defendant Stephens in this case? A. Yes, sir.

Q What did you say to Livingston at that time? A. Well, that question reminds me, that Paul did insist on a member of the raiding squad, but I was thinking of the white raiding squad.

Q. Had he insisted on a member -- a particular colored member of the raiding squad? A. He wanted to put Fugate.

Q. Over there? A. Over there.

Q. Why wasn't Fugate on over there? A Because I was

808] in charge of the colored part of town, to organize it, through Theopolis Scoggins, and Scoggins wanted Hunter and Stephens, because he could work with them, and we finally agreed if Theopolis Scoggins was to handle the colored part of town he should have the officers that he wanted over there, so they were appointed on a trial basis. If it didn't work out we intended to move them. And then at the meeting on Pine, it had been worked out, that is, at the old Pines Theatre it had been worked out satisfactorily in colored town, and Paul had decided that if the officers were not successful, then

Scoggins was not successful either, so he wanted to get rid of all three of them and I had gone to the Pines Theatre to try to save Scoggins.

Q. All right, now, to the best of your recollection were Hunter and Stephens assigned to the vice squad during May of 1956?

Mr. Rucker: Object to that as leading and suggestive, if Your Honor please.

The Court: Overruled, I think we have an exhibit do we not, which discloses the --

Mr. Crawford: Yes, sir, I have the exhibit right here, Your Honor.

The Court: Objection overruled.

Mr. Crawford: And --
A. Well, I --

809] The Court: You may answer the question, if you can.

A. Repeat the question.

Q. (By Mr. Crawford) I said to the best of your recollection were Hunter and Stephens actually assigned to the raiding squad during May of 1956? A. Well, Jay took office May 8, but I don't remember how long he left the old raiding squad over there. Now our organization didn't go into action until June and it took us from May 8th up until June to get the organization worked out.

Q. All right. Well now when you had this conversation at the location of the Pines Theatre, Stephens and Hunter were actually on the raiding squad at that time, is that correct? A. Yes, sir, -- yes, sir.

Q. All right, what did you say with regard to them at that meeting? A. Well, I laid all the blame for the failure of collections falling down in that area of town on Hunter and Stephens. I told Paul that Theopolis Scoggins couldn't get them to do any work over there -- do work I mean enforcing the law once they were told not to enforce the law. They didn't arrest anybody; Paul said, well, they are Scoggins' men; if he can't handle them, we better let Scoggins go too. And that's what happened; they were replaced.

Q. By enforcing the law, do you mean enforcing the law against those that were paying or against those that were not paying? A. Those that were not paying -- but they
810] didn't arrest anybody.

Q. All right. Did you ever attend a meeting where the defendant Stephens was present? A. Yes, sir.

Q. And did you attend more than one of those meetings? A. I met with Stephens twice.

Q. And where did you meet with him? A. On the north side of his house.

Q. Inside or outside? A. No, in my car both times.

Q. And was there anybody else there on the first occasion? A. Theopolis Scoggins.

Q. What was the conversation that took place there? A. Well, I was trying to get Stephens to arrest somebody.

Q. And what did he say? A. He said he was going to get tough -- but he never did.

Q. Did Scoggins contribute anything to the conversation? A. Scoggins was trying to get him to do the same thing.

Q. All right then you say you had another meeting in the same location? A. Yes, sir.

Q. Was Scoggins present at that meeting? A. Yes, sir.
811] Q. When did this meeting -- those meetings take place?

A. They were in June.

Q. What was the topic of the second meeting? A. Same thing.

Q. Was it day time or night time? A. Both times at night.

Q. What was Stephens -- what did Stephens say then? A. He said, I am going to get tough. But he didn't.

Q. And all right, what did Scoggins say? A. Scoggins was pleading with him to get tough. I had told Scoggins and I told Stephens that if collections didn't come up over there that they were both going to have to go.

Q. All right, now did you ever pick up any money from Scoggins? A. Yes, sir.

Q. And how often did you pick it up? A. I picked it up the first time -- he had picked up money for two weeks, the first time I picked up money it was for the two week period, but thereafter I picked up every week.

Q. And where did you normally go to pick up the money? A. At his store.

Q. Is that over in the part of north Tulsa? A. Yes, sir.

Q. Grocery store? A. Yes, sir.
812] Q. When he gave you the money, would it be check or cash?
A. It would be in cash, with a list of who and what they had contributed.
Q. Do you remember any of the names that appeared on the list? A. Yes, sir, I do. There was -- over there -- the operation over there was a little different from over here.
Q. Will you explain that, please. A. Well, for instance, one week one operator would pay and the next week he wouldn't pay, and then maybe the third week he would come back in and pay again. The list changed every week and I saw a lot of names but I remember distinctly four names on that list from time to time.
Q. And what were those four names? A. Roy Johnson, that is a druggist over there and he is in the police business, and J.D. Pitts; he is a bootlegger and Frank Fletcher, he is a bootlegger and Alfonso Williams; he is a bootlegger.
Q. Now how much per week were those people paying, Mr. Edwards, when they did pay? A. Well, I had -- I had a rate set up for them but they all said it was too high. We collected --
Q. What was the rate you set up? A. It was according to how big an operator he was. I had Alfonso Williams set up for $100 a week.
Q. How much did you have Frank Fletcher set up for?
813] A. I think the lowest figure that I agreed on that I would accept was $25 a week, but I didn't get that from any of them but Alfonso Williams.
Q. Then the payments were supposed to run from twenty-five to $100 a week, but you say they ran less than that, is that right? A. That's right.
Q. Did Alfonso pay $100 a week? A. For July.
Q. How many weeks did you pick up from Scoggins? A. I picked up from the first of June -- the first two weeks in June, I picked up three times in June; I picked up twice in July.
Q. Now -- A. I was informed the middle of July that I was no longer in control of the whisky business; that's the reason I only picked up twice in July.
Q. I will get to that in a minute. Now I want to ask you, Mr. Edwards, if you ever had any meetings during the last summer or thereabouts with the defendant Nolen Bulloch? A. Yes, sir.
Q. Did you have one or more meetings? A. I had two meetings with him.
Q. When was the first -- when did the first meeting take place? A. Ranch Acres Shopping Center.

814] Q. Do you recall the approximate month that that took place? A. That was in June.

Q. Was this before or after the meeting with Paul Livingston where you gave him the $300? A. It was after the meeting with Paul Livingston where I gave him the $300.

Q. All right, did you converse with Bulloch at that time in an automobile? A. Yes, sir.

Q. Do you recall whose car it was? A. I believe it was in my car.

Q. Do you recall whereabouts you parked? A. Yes, sir, it was just east of the Empire Furniture Company -- they occupied the east building of the Ranch Acres Shopping Center.

Q. Was this meeting in the day time or the night time? A. It was in the day time.

Q. And will you relate to the jury the substance of that conversation, please. A. Yes, sir, I had given Paul Livingston $300 to help me with my case in the County, and I wanted -- he told me wnere the money was going and I wanted to verify the fact that Nolen got the money.

Q. Did you ask Nolen about it? A. Yes, sir, I asked him
815] if he got it.

Q. What did he say? A. He said he did.

Q. Did he say anything about the case? A. He said he did -- everything was going to be taken care of, just like we had agreed on.

Q. Did you have any other conversation there with him at that time? A. Nothing important. That was -- the purpose of the meeting was to verify whether Nolen got the money or not.

Q. All right now, subsequent to that time did you have a meeting with Paul Livingston in the vicinity of 31st and Yale? A. I had a meeting with Paul Livingston after that meeting.

Q. Well, that is what I mean, after that meeting? A. Well, I didn't understand you clearly.

Q. Did that meeting -- after the meeting with Bulloch took place, at -- in the vicinity of 31st and Yale, -- A. Yes, sir.

Q. Do you recall the month that that meeting took place then? A. That was in the latter part of July.

Q. And did you have a conversation with Livingston there at that meeting? A. Yes, sir.

Q. And what did he say to you at that time? A. He re-
816] turned my $300.

Q. Did he say why he was returning it? A. He said there had been too much talking, too many people knew about it, he couldn t get the job done.

Q. Did anything else of any consequence happen at that meeting? A. No, sir, that was the purpose of the meeting; that was after I had been informed that I was -- I wasn't any longer in charge of the whisky.

Q. Well now let's get to that; who advised you that you were no longer in charge of the whisky? A. Jack Gott.

Q. Did he do that in person or by telephone call? A. By telephone.

Q. What did he tell you? A. He called me up and told me the deal had blown sky high, quit taking money, quit contacting anybody, and when the boys' time ran out that were paid up, the deal was completely off.

Q. Did you complain to him at that time? A. Yes, sir.

Q. Did it -- Gott say anything else to you? A. He said he didn't know why, he said, I am in the dark as much as you are, but he says, that's the information -- he says, that's the orders I have received, to call you and tell you to cease operations.

817] Q. Now, Mr. Edwards, after the time that this arrangement was set up and under the agreement, did you have the authority to determine which liquor dealer would be in, and which ones would be out? A. Yes, sir.

Q. Did you exercise that authority? A. Yes, sir, as far as I could.

Q. Now, has your liquor business been one primarily of selling to local private citizens or to other liquor dealers? A. Other liquor dealers. Ninety-nine per cent of my business is to sell to other bootleggers.

Q. And was it a part of this agreement that you were to sell to the liquor dealers that you were picking up from? A. It wasn't -- it wasn't mandatory that they buy from me; I told them if they traded with me I would appreciate it, but they could trade with whoever they wanted to.

Q. Did most of them trade with you? A. No, there was -- no, they didn't, because -- enough traded with me that I had all I could do.

Q. In other words, you didn t have any more room for additional business, is that correct? A. Well, no, I was doing all I wanted to do.

Q. All right now, did you have the authority to cut off a liquor dealer if he didn't trade with you; could you have done that? A. Yes, sir.

818] Q. Did you endeavor to do that on one occasion? A. On one man I did.

Q. Who was that man? A. Bob Massey.

Q. And did you cut him off? A. No.

Q. Did you ever tell him that you would? A. I sure did.

Q. Now, Mr. Edwards, I am going to ask you with regard to certain of the liquor dealers, some of whom are defendants in this case and some who are not; did you ever pick up any money from Fred A. Griffing, the defendant? A. Yes, sir.

Q. How much did you pick up from him? A. $200.

Q. Did you pick that up once or more than once? A. Twice.

Q. During what months? A. June and July.

Q. Now, were these pick-up payments normally transacted at the first of the month or the end of the month? A. First of the month.

Q. They covered what, the following month, the month they were picked up in? A. Yes, sir, they paid in advance.

Q. All right now do you recall where you picked up the 819] money from Griffing? A. Griff's house.

Q. Were the payments made in cash? A. Yes, sir.

Q. Did he himself give you the money? A. Yes, sir.

Q. Did he give you anything else such as a description of the cars? A. Yes, sir.

Q. What did you do then with the description of the cars? A. I gave it to Jack Gott.

Q. Were those the cars to be covered by the $200 payments? A. Yes, sir.

Q. Did you ever pick up any money from the defendant Elmer Oakley? A. Yes, sir.

Q. How much did you pick up from him? A. I picked up $400 twice.

Q. Was that $400 on two different occasions, or two hundred -- A. That was $400 on two different occasions.

Q. And were those during the month of June and July? 820] A. June and July.

Q. I'm still somewhat in doubt; was it a total of four hundred, for both June and July? A. Well, I picked up money from Elmer for Elmer and another --

Q. Well, how much did Elmer pay for himself? A. $200.

Q. Each of the months, June and July? A. Yes, sir.

Q. All right, who else did Elmer pay for? A. Neil Williams

Mr. Gotcher: To which we object, unless he states he knows -- Neil Williams gave him the money.

The Court: I will sustain the objection as to Neil Williams.

Q. (By Mr. Crawford) Well, did Elmer Oakley tell you that the other $200 was from Neil Williams? A. Yes, sir.

Mr. Gotcher: To which we object as hearsay.

Mr. Crawford: If the Court please, --

The Court: I will overrule it -- I will overrule it.

A. Yes, sir, he told me --

The Court: Just a minute. Oakley's statement would be admissible against Williams only in the event there is other independent evidence showing Williams to be a member of the conspiracy. Of course if there isn't it will not be
821] considered. And an appropriate ruling will be made to that effect. For the time being the evidence will be considered admissible.

Q. (By Mr. Crawford) On each of the two occasions in June and July that you picked up money from Oakley, did -- the $400 include $200 from Neil Williams?

Mr. Gotcher: To which we object to unless he states personally it came from Neil Williams.

Mr. Crawford: I will rephrase the question, Your Honor.

The Court: You may put the question in a different way. It would be proper for this witness to tell -- to relate what Oakley told him about the source of the additional $200.

Q. (By Mr. Crawford) All right, when Oakley delivered the $400 to you in June, Mr. Edwards, did he tell you where the $200 came from? A. Yes, sir.

Q. Where did it come from? A. He said Neil Williams.

Q. The other $200 was from him, himself, is that right?

A. That's right.

Q. When he gave you $400 in July did he tell you where $200 came from? A. Yes, sir.

Q. Where did he say it came from? A. From the Neil
822] Williams.

Q. The other $200 was from Oakley, is that right? A. Yes, sir.

Q. Was this money all in cash? A. Yes, sir.

Q. Do you remember where you picked the money up from Elmer Oakley? A. I think at a cafe at 28th and Harvard.

Q. Now, did you ever pick up any money from the defendant Lee Johnson? A. Yes, sir.

Q. And on how many different occasions did you pick up money from the defendant Lee Johnson? A. There times -- four times.

Q. All right, how much did you pick up the first time? A. $100.

Q. And you recall the month that that money was picked up? A. That was in --

Q. Well, was it before the election? A. It was before the election.

Q. The election was April 3rd; it would be prior to that time, is that correct? A. Yes, sir, I think it was in March, it was definitely before the election.

Q. The election was April 3rd; it would be prior to that
823] time, is that correct? A. Yes, sir, I think it was in March, it was definitely before the election.

Q. Did you have any conversation with Lee Johnson when you picked the money up at that time? A. Yes, sir.

Q. Was he to receive any credit for the $200? A. Yes, sir.

Q. Will you tell the jury the discussion you had with regards to how that $200 was to be applied. A. $100, the first time.

Q. $100 the first time? A. Yes, sir.

Q. How was it to be applied? A. If Jay Jones was elected he was to receive credit for the $100 on the first month that the conspiracy went into operation, or the fix started working.

Q. All right, how much did you pick up from Lee Johnson the second time? A. $100.

Q. Do you recall when you picked that money up? A. That was before the election.

Q. Under the same arrangement? A. Under the same arrangement.

Q. Why did you go back to him for an additional $100? 824] A. Jay needed more money.

Q. All right now, did you pick up money from him then a third time? A. Yes, sir.

Q. How much did you pick up that time? A. $200.

Q. Was that before or after the election? A. That was after the election.

Q. Do you recall the month that that money was paid? A. It was around the first of June.

Q. All right, did you pick up from him again then in July? A. Yes, sir.

Q. How much? A. $400.

Q. Did that cover he himself, alone? A. That covered four cars that he was operating.

Q. All right, where did these transfers of money take place from Lee Johnson himself? A. I believe that Lee's house; I'm not sure but I think it was at Lee's house.

Q. Now, did you ever pick up any money from the defendant Don Tex Rucker? A. Yes, sir.

Q. When did you first pick up from him? A. July, around 825] the first of July.

Q. How much did you pick up from him? A. $200.

Q. Was that to cover the minimum or was that for two cars? A. Well, it -- well, I don't remember; I think he had two cars.

Q. All right, did you pick up again from him in July? A. I picked up in July, that's the only time I picked up from Tex.

Q. That's the only time? A. Yes, sir.

Q. Now, Mr. Edwards, when you picked up the money from these various people that you have mentioned, did they give you a description of the cars to be covered? A. Yes, sir.

Q. What did that description usually consist of? A. The type of car, the color, and the license plate.

Q. During any of the time covered by the period you picked up, did somebody ever change a license plate or car? A. Oh, almost every day.

Q. You would get then, new descriptions, at various times? A. That's right.

Q. Would you meet Jack Gott regularly to turn these over to him? A. I expect I met Jack Gott five days a week.

826] Q. Where did you normally meet him? A. We met in Utica Square Shopping Center, we met in the Ranch Acres Shopping Center; I remember those two places distinctly because we met there several times; but we always met out in that end of town, always in the morning before Jack went to the police station.

Q. All right. Did you pick up any money from Bill Curlee? A. Yes, sir.

Q. How much did you pick up from Bill Curlee? A. $200 in June and $200 in July.

Q. Was that to cover one car, minimum or two cars? A. Two cars.

Q. Do you recall where the transfers of those moneys took place? A. One time I distinctly remember it was behind the cafe at 28th and Harvard, and I don't know whether -- that was the second time, that was in July. And I don't -- I can't truthfully say where I got the money for the June -- for the month of June.

Q. All right, back before the election did you have occasion to pick up some money from Bill Massey? A. Yes, sir.

Q. How much money did you pick up from Bill Massey? A. The first time I picked up $600.

Q. Did Bill tell you where the $600 came from? A. Yes, 827] sir.

Q. Who it was to cover? A. Yes, sir.

Q. Who did he say? A. It was to cover himself, Dave Massey and Bob Massey.

Q. And back before the election was there any agreement with regard to how that money was to be applied? A. Yes, sir, if Jay Jones was elected they were to receive credit, that was to pay them up for one month, absolute protection.

Q. All right, did you ever pick up any money from Bob Massey? A. No.

Q. Did you ever pick up any money from Dave Massey? A. No.

Q. Did you pick up any additional moneys from Bill Massey? A. Yes, sir.

Q. When did you pick up the additional money from Bill Massey? A. The last part of March I went to Bill and told him I needed $300 more and he gave it to me.

Q. Was that delivered on the same condition as the previous $600? A. Yes, sir.

Q. All right, did you pick up any money from Bill Massey 828] during July 1956? A. Around the first of July I picked up $800 from him.

Q. Who was that to cover? A. That was to cover Bob, Bill, and Dave Massey, in their delivery business, and Buck's Garage on South Cheyenne, which was operated by Bob Massey.

Q. That was $200 for each of the three, plus $200 for Buck's Garage, is that right, or did Bill Massey tell you at the time the money was delivered who it was to cover, and what place? A. Yes, sir.

Q. Did he give you automobile descriptions and all? A. Yes, sir.

Q. Now did you ever pick up any money from the defendant John Hood? A. Yes, sir.

Q. When did you pick up the first money from John Hood? A. Around June, or June 15.

Q. And whereabouts were you at that time when you picked up that money from John Hood? A. On the parking lot of the People's State Bank.

Q. And how much money did John give you then? A. $600.

Q. Did he say who that was to cover? A. That was to
829] cover himself, Jackie Hood, and John's sister and I forget his name.

Q. $200 apiece? A. Yes, sir.

Q. Did John tell you where he was operating at that time? A. He didn't have to tell me I knew.

Q. Did you know, where was it? A. Well, I don't remember the address, but it is that one on the list.

Q. Was he paid then for himself --

Mr. Malloy: Wait a minute -- wait a minute, object to that, move be stricken; he said he doesn't even know what the address is.

The Court: Overruled.

Mr. Malloy: Exception.

Q. (By Mr. Crawford) Did you pick up any additional moneys from John Hood? A. Yes, sir, on July 1st I picked up $300.

Q. Where did those transfers take place? A. On the parking lot of the People's State Bank.

Q. How much money was passed, did you say? A. $300.

Q. And then who did that $300 cover? A. Same people, Jackie Hood, and John's sister.

Q. Do you know what type of establishment the Hood's were
830] operating? A. Yes, sir.

Q. Were they operating what you would call walks-ins or automobiles? A. Walk-ins.

Q. Would you describe to the jury what a walk-in is? A. Well, it is -- it is a residence or place of business or a vacant building where bootleggers sell whisky to people who come there to buy.

Q. In other words, they can walk in and buy their whisky, is that right? A. Right, that's right.

Q. Now did you ever pick up any money from Archie Moore? A. Yes, sir.

Q. And how much money did you pick up from Archie Moore? A. $200 in June, $200 in July, for the Wayne Hotel, and $200 additional in July for 403 South Denver.

Q. Where did those transfers normally take place? A. In front of the Wayne Hotel in my car.

Q. Did Archie deliver the money to you? A. Yes, sir.

Q. Do you know whether or not Archie was operating any other places that were not covered? A. No, I don't.

Q. Did you ever pick up any money from Ben Bly? A. Yes,
831] sir.

Q. How much did you pick up from Ben Bly? Q. $200 for the month of June and $200 for the month of July.

Q. Do you recall where those transactions took place? A. At my house.

Q. Do you recall Mr. Edwards whether or not there were any liquor dealers that you were picking up from, or that you picked up -- did you ever pick up from Paul Vawter? A. No, sir.

Q. Did you ever pick up from James Clark Warren? A. Yes, sir, I picked up from Jim Warren.

Q. How much did you pick up from Jim Warren? A. $200 for the month of July.

Q. And where did you pick up that money? A. At his -- it is a rooming house, at 21-1/2 North Main.

Q. Was he operating that as a walk-in? A. Yes, sir.

Q. Were the establishments that Archie Moore was operating running as walk-ins? A. Yes, sir.

Q. Were there any other walk-ins that you picked up from? A. Well, I picked up from Buck's Garage, 403 South Denver, and Wayne Hotel, and 21-1/2 North Main, of John Hood's -- those three places that John paid for; I believe that's all.

832] What was the minimum for a walk-in? A. $200.

Q. Now, Mr. Edwards, when you picked up the money from these various individuals, did you disucss what was going to be done with the money; in other words, what were they to receive for it? A. Oh, they were to receive absolute protection from the city raiding squad.

Q. They wouldn't be raided then as long as they were paying? A. That's right, and if they were they got their money back and all the whisky that they lost -- it was paid for.

Q. Did you ever have occasion to return any of the money or the whisky? A. Yes, sir, I did.

Q. Who was that to? A. Archie Moore.

Q. Who raided him? A. The city raiding squad raided him; they got their wires crossed and went down there and raided him.

Q. Is that the only time that that happened? A. Yes, sir.

Q. Now after all this money was picked up, Mr. Edwards, did you ever meet to distribute it? A. Yes, sir.

Q. And where did you meet? A. The only time that --

833] that we met to distribute the money was at my house.

Q. And who met there with you? A. Jack Gott and Charlie Hirrlinger.

Q. Who arrived first, do you recall? A. Jack Gott.

Q. Wuld you tell the jury how he arrived, by foot or automobile. A. He came by automobile

Q. What did he do with his automobile when he arrived? A. We had had a telephone call and we were trying to figure out some place to meet and cut up this money, and my wife was out of town at the time, and I said, well, Jack, there is nobody here; why don't you just come down here? Well, he said, that will be fine. I said, I will move my car out of the garage, leave the door open and you can drive in and put the door down, which he did.

Q. Then he came into the house, is that right? A. Came into the house through the -- there is a door connects to the kitchen from the garage.

Q. Do you recall when this occasion took place, Mr. Edwards? A. That was in the first -- very first part of July.

Q. And did Hirrlinger bring any money with him when he arrived? A. He brought a small amount of money, that I don't remember, how much.

834] Q. And what did you do with the money that you had

collected to that time; did you bring it into the meeting? A. Oh, yes, yes, sir, we pooled the money right there.

Q. You pooled the money. A. Uh huh.

Q. Did you divide it up then in accordance with your previous agreement? A. We divided it up in accordance with Paul's agreement.

Q. All right, approximately how much money did you have there at that time, in total? A. I don't remember, Mr. Crawford, -- I definitely remember how much I got.

Q. How much did you get? A. A little over $200.

Q. Was that one-third of ten per cent? A. That was one-third of ten per cent.

Q. Hirrlinger got the same amount? A. Hirrlinger got the same amount; Johnnie McAfee got the same amount.

Mr. Page: If Your Honor please, I am going to move to strike that; Johnnie McAfee got the same amount, unless he knows.

Mr. Crawford: I am going into that right now.

The Court: You are going into that right now?

835] Mr. Crawford: Yes, sir.

The Court: All right, overruled.

Q. (By Mr. Crawford) Johnnie McAfee was not there? A. No, sir.

Q. Who took the money from your house to give to Johnnie McAfee? A. Charlie Hirrlinger.

Q. And then the balance of the money, the other ninety per cent was left with Jack Gott, is that right? A. That's right.

Mr. Page: I move the strike that because that would be hearsay, certainly he couldn't tell of his own knowledge what Charlie Hirrlinger took, whether he took it there or not.

Mr. Crawford: Well, I intend to --

The Court: The jury will be advised not to consider the testimony unless there is, subsequently, testimony to the effect that the money was given to McAfee.

Q. (By Mr. Crawford) Now, Mr. Edwards, did you ever have an occasion during the fall of 1956 to have another meeting with the defendant Nolen Bulloch? A. Yes, sir.

Q. Do you recall the month that that meeting took place? A. That was in November.

Q. And where did the meeting take place? A. Mayo Meadows Shopping Center.

Q. Was anybody else present at that meeting besides
836] yourself? A. No, sir.

Q. And Nolen Bulloch? A. Nolen Bulloch.

A. And in whose car did that meeting take place?

A. I believe we got in Nolen's car.

Q. And what was the substance of that conversation, Mr. Edwards? A. Well, at that time I was out of business, and I was grabbing at straws, trying to get back in business, and I knew Nolen could help me -- I didn't think he would but I knew he could, and I went to him and asked him --

Mr. Rucker: Object to that, if Your Honor please, as a conclusion and a statement of opinion.

The Court: Sustained; the statement just made by the witness should not be considered by the jury; just tell the conversation that took place.

A. Well, I asked Nolen to help me in getting back in business and he never did say whether he would or whether he wouldn't. But he didn't.

The Court: What did he say?

A. He propositioned me to go in the whisky business with me.

The Court: What did he say as best you can --

837] A. Sir?

The Court: What did he say in substance to you?

A. Well, Your Honor, I -- it is hard to recall exactly what he said. I know that the meeting didn't accomplish anything as far as I was concerned in the -- as far as what I was

trying to get accomplished, I didn't accomplish anything.

The Court: Then is it your testimony that you cannot recall the substance of the conversation that you had with him?

A. No, it is not that.

The Court: Well, as I have told you before, you are not expected to be able to recite word for word a conversation had several months ago, but you should be able to state generally the substance of the conversation.

A. Well, if the Court please, I thought I had stated that substance, and we had discussed --

Q. (By Mr. Crawford) Well, let me ask you this, Mr. Edwards: Did you ask him a question? Did he ask you a question? A. Yes, sir, I remember him asking me -- I told him that I was out of business and he asked me, why, how come -- you have been around here a long time.

Q. Did you tell him why you were out of business? A. Yes, sir.

Q. What did you tell him? A. I told him that my competition was selling cheaper whisky than I was selling and given protection.

838] Q. Who was your competition? A. Martin Edwards.

Q. And had you lost any of your customers? A. Lost them all.

Q. And did he say -- did Nolen Bulloch say anything to you at that time? A. Well, he said, what do you want me to do about it?

Q. What did you say to him? A. I said, well, I'll be damned if I know.

Q. What did he say? A. Well, about that time he said, well, how about me and you going in the whisky business?

Q. What did you say to that? A. I said, I'm ready.

Q. What did he say? A. Well, I sat there a few minutes and tried to figure out what would be a good deal for him and a good deal for me, and I offered him $100 -- or, a dollar a case for every case that I sold.

Q. And what was he to do to earn that dollar a case? A. Naturally he was to give me protection.

Q. What type of protection? A. From the police.

Q. You were to go back in the deal then in some way, is
839] that right?

Mr. Rucker: Objected to as leading and suggestive, if Your Honor please.

The Court: Sustained.

Mr. Crawford: Well, I will withdraw the question.

Q. (By Mr. Crawford) Did you have any further conversation with him?

The Court: Wait just a minute; you stated that you suggested a willingness to pay a dollar a case. What did Mr. Bulloch say in response to that suggestion?

A. Oh, he acted -- acted real happy about the suggestion.

The Court: Well, what did he say to you?

A. He said, Well, that's more money than I ever thought of making, and he said -- I -- I believe I will go down and quit my job. That's about how the thing went off.

Q. (By Mr. Crawford) Did that deal ever materialize?
A. Nothing ever happened.

Q. All right now, Mr. Edwards, when you were picking up from these various liquor dealers and picking up the money from the various liquor dealers, how many of them were you selling whisky to? A. Well, I was selling to Bill Massey and Dave Massey; I was selling Dave part of his whisky; I wasn't selling all of it; Dave was actually running Bob Massey's Buck's Garage; Bob owned it, but Dave run it. And I was selling whisky to that walk-in; I was selling Bill Massey his whisky,
and to start off I was selling Lee Johnson some whisky,
840] but that didn't last long. And I was selling -- selling Griff his whisky. I believe that's all.

Q. How many cases would you transfer at a time to Griff, do you remember? A. Oh, the first part of the week it wouldn't be very much.

Q. About how many the first part of the week? A. Oh, from one and a half to three and a half or four cases.

Q. How many cases the latter part of the week? A. From five to ten.

Q. All right then how many cases at a time were you transferring to Lee Johnson when you sold to him? A. Lee bought twenty-five or thirty at a time.

Q. All right and how many cases were you selling to Bill Massey when you sold to him? A. I sold him -- oh, the same thing worked with all of them; the first part of the week they didn't need much whisky; the latter part of the week they did; the bulk of their whisky was all Thursday, Friday and Saturday, first part of the week, Bill's purchases would run two, three and four cases; the latter part of the week it would run six, seven, eight, ten cases -- twelve.

Q. And you were buying your whisky from Don Gray, is that
841] right? A. Yes, sir.

Q. Did Fred A. Griffing ever work for you? A. Yes, sir, he did.

Q. What month did he work for you? A. He went to work for me about the middle of May and worked until the middle of October.

Q. 1956? A. Yes, sir.

Q. What type of work did he do for you? A. He was hauling whisky for me.

Q. And where was he hauling the whisky from? A. Don Gray.

Q. Into Tulsa, Oklahoma A. Yes, sir.

Mr. Malloy: I object to that -- wait a minute --

Mr. Shortridge: Object to that unless this witness had personal knowledge.

A. I called the order in.

The Court: Objection overruled.

Q. (By Mr. Crawford) You called the order in to Don Gray? A. Yes, sir.

Q. You talked to him personally? A. Yes, sir.

Q. Did you call him from Tulsa? A. Yes, sir.

842] Q. And then Griff would go up and get it, is that right?

A. Yes, that's right.

Q. About how many trips a week was he making for you

during that period of time? A. He made sixteen trips in June and he made sixteen trips in July.

Q. And from what address did you handle your telephone calls in your business? A. 3255 South Florence.

Q. And that is -- A. That is my home.

Q. And that is where you conducted -- A. Yes, sir.

Q. Now, Mr. Edwards, taking you back again to June of 1956, did you ever have a meeting with Jay Jones, Johnny McAfee and Charlie Hirrlinger, near Apache and Lewis? A. Yes, sir.

Q. And what was the time of day of that meeting? A. That was after dark; we met first at -- Pine and Lewis, on the parking lot, on the Safeway Stores; there was too much light there, there was too much activity, so we decided we better move to Apache and Lewis, so we did.

Q. What was the topic of conversation of that meeting?

843] A. We were dissatisfied with the way that the fix was operating and we were completely dissatisfied with it. We were trying to get Jay to do something, to use his authority to run it like we had agreed it would be run, and we made an all-out attempt that night to learn the identify of the mystery man.

Q. What did you say to Jay with regard to who the mystery man was. A. Well, we just asked him.

Q. And what did he say? A. He wouldn't tell us; he said, it is in strict confidence. And we said, why won't you tell us, and he said, I just can't tell you -- I won't tell you. And he didn't.

Q. All right, did you ever have another meeting there in June in the vicinity of the Springdale School, with Johnnie McAfee, Charles Hirrlinger and Jay Jones? A. Yes, sir.

Q. What was the purpose of that meeting? A. The same old story; we were trying to get Jay to use his authority to straighten the thing out.

Q. Well now, what do you mean by, use his authority to straighten the thing out? A. Well, the boys that were -- the boys that were paying me for protection were dissatisfied because nobody was getting arrested; the boys that were not paying were not having any trouble at all. And they

844] thought that they were being used as chumps, after paying me for protection, nobody got arrested and they were dissatisfied with that. We were trying to cut out the cut-rate dealers, and of course, to get anybody to pay you money you have to arrest them, but nobody was arrested, so the boys that voluntarily paid me money were wondering why.

Q. Did that condition exist throughout the time that you were in the agreement? A. Yes, sir. I would take Jack information, orders for him to relay to the vice squad, and he said he relayed them; I believe he did, but they -- they ignored them; I never got anything done.

Q. All right. And soon thereafter you were out of the deal, is that right? A. Yes, sir.

Q. Now, has Jay Jones ever been in your home? A. No, sir, I don't believe he has.

Q. Has he ever been out near your home? A. Not that I know of.

Q. Have you ever been in his home? A. Yes, sir.

Q. When was the last time? A. That was in November.

Q. 1956? A. Yes, sir.

845] Q. What was the occasion for you being out there in November of 1956? A. I was out of business.

Q. Did you go out to complain to him? A. Yes, sir.

Q. What did you say to him? A. I told Jay exactly what had been done to me, and he said, Well, Bill, -- I told him I was out of business, and he said, Well, Bill, you haven't been arrested. And I said, Jay, there is more ways than one to skin a cat; I am out of business because I am being under sold, and by my competitor, Martin Edwards. And he is given protection and you are the main reason, you and Paul Livingston.

Q. What did he say to that? A. Well, he said, Bill, I am going to make a change -- I can just see him -- I am going to make a change -- wouldn't even look at me, just sat there with his head down, I'm going to make a change. I said, how much time do you need, Jay? He said, Give me a little more time. I said, You have had six months.

Q. What did he say? A. Well, he said, give me a little more time, and I said, Jay, you can't do this to me and get by with it.

Q. Did he say anything else? A. No. I got loud, a
846] time or two, and he said "shush" Dorothy will hear you.

* * * * *

847] The Court: Did you tender the witness for cross-examination?

Mr. Crawford: If the Court please, I might inquire as to one or two more questions.

Q. (By Mr. Crawford) Mr. Edwards, did you ever have a conversation with Nolen Bulloch with regard to a case of whisky?

Mr. Rucker: Now, if Your Honor please, we object to that as improper redirect; it has been gone over and the question is leading and suggestive. Your Honor interrogated this witness yesterday about his conversations with Nolen Bulloch, and we object to at this late stage coming in with a leading and suggestive question, going into these matters further.

The Court: Overruled.

Q. (By Mr. Crawford) You may answer the question.
A. Yes, sir.
Q. And do you recall approximately when that conversation took place? A. Yes, sir, it was about June of '55 -- about the middle of June of '55.
Q. And do you recall where the conversation took place?
A. At my home.
Q. Now will you relate to the jury to the best of your
848] recollection just what Nolen Bulloch told you at that time?
A. Well, he called me before he came out and I was the most surprised person in the world that Nolen would call me; at that time we were just barely speaking to each other -- in fact I would rather he wouldn't speak to me.

The Court: Just answer the question; don't make any voluntary statements that are not responsive to the question.

A. He asked me if he could come out and I said, Yes, come on; and so after he got in the house why he told me that the reason for his visit was, I had had a case in the county and I had had a car registered in a fictitious name, which is a felony, and he told me that he had talked Bob Scott out of filing it.

Mr. Rucker: We object to that as not within the issues of this case, it has to do with a county proposition, has no connection with this alleged conspiracy.

(Thereupon Mr. Crawford, Mr. Rucker, Mr. Malloy and Mr. Boorstin conferred with the Court at the bench.)

The Court: The objection is overruled.

Q. (By Mr. Crawford) Now, Mr. Edwards, would you relate -- may I have the Reporter please read the last statement.

(Thereupon the Reporter read the last statement of the witness.)

Q. (By Mr. Crawford) And who is Bob Scott? A. He is assistant county attorney.

Q. And did Bulloch say anything else to you at that time?
849] A. Yes, he told me that he thought I owed Bob Scott a case of whisky.

Q. And did you subsequently deliver such a case of whisky? A. Yes, sir, I asked Nolen what kind of whisky Bob drank and he said he liked Scotch, and I took him a case of Scotch.

Q. Well now, do you recall what time of the day or night you took the case of Scotch? A. It was early morning; Bob Scott wasn't up, and I left the case of Scotch in his garage.

Q. Now, Mr. Edwards, during any of these conversations you had with -- or meetings that you had with the defendants Jack Gott and Paul Livingston, was anything ever said about the defendant Cliff Wells? A. Yes, sir.

Q. Do you recall at which meeting? A. It was the March 30 meeting, that was our first big meeting.

Q. And at that time Charles Hirrlinger, Johnny McAfee, Jay Jones, Paul Livingston and Jack Gott were present, is that correct? A. Yes, sir.

Q. Will you relate what was said and by whom about Cliff Wells at that time?

Mr. Keith Smith: If the Court please, object to that for the reason that the evidence has shown that the defendant Cliff Wells was not present; it is hearsay.
850]

The Court: It would be hearsay and inadmissible against the defendant Cliff Wells unless there should be other competent evidence sufficient to establish that Cliff Wells became a member of the conspiracy.

Mr. Smith: If the Court please, may I approach the bench?

The Court: You may.

(Thereupon the following proceedings were had at the bench out of the hearing of the jury:)

Mr. Smith: At this time the defendant Cliff Wells requests the District Attorney to announce to the Court in what manner he proposes to show that Cliff Wells ever became a member of the conspiracy in order that this evidence might ever become competent.

The Court: All right, I think that's a proper request.

Mr. Crawford: All right, sir, the evidence on the part of the United States we believe will show that Bill Edwards and Charles Hirrlinger who were members of the reorganization, or the final phase of the conspiracy, Edwards being the so-called whisky man and Hirrlinger being the man who had the responsibility of picking up from the prostitutes, were replaced by Martin Edwards, and Cliff Wells, and that Cliff Wells also participated in the pick-ups and deliveries of sums of money to the other conspirators, from bootleggers as well as
851] prostitutes.

Mr. Smith: Do you propose to show that from this witness?

Mr. Crawford: I don't propose to show it from any one witness; I propose to show it from as many as twelve witnesses.

Mr. Smith: I still renew the objection at this time.

The Court: No, overruled. Of course I will advise the jury at the close of the case that if they are not satisfied from other competent evidence that he became a member of the conspiracy that this should not be considered.

Mr. Smith: I want to make the further objection that under the offer of the District Attorney, that shows that at the most he proposes to show that Cliff Wells picked up the money from the prostitutes, which is not within the allegations of the indictment and which has nothing to do with the importation of whisky into the State of Oklahoma or the Northern District, or the sale of whisky without proper stamps affixed thereto, and ask the District Attorney if he proposes to make a connection in that regard.

The Court: Well, I have asked him about that and it is my understanding that it is the Government's theory that the money all went into a pot, in which -- they had in it -- that the money collected from bootleggers, prostitutes and gamblers all went into a pot and that the members of the conspiracy
852] participated in the over-all plan of operation which of course included the --

Mr. Smith: I would like to point out to the Court that the indictment does not proceed on that theory; the indictment might well have proceeded upon that theory, but it limits it to two specific violations, and two specific conspiracies.

The Court: Well, I will overrule the objection.

(Thereupon the following proceedings were had within the hearing of the jury.)

The Court: The objection is overruled; you may answer the question.

Q. (By Mr. Crawford) The question was as I recall, for
853] you to relate the conversations -- the words said, and by whom at the March 30 meeting with regard to Cliff Wells.
A. I made the statement to the group -- not especially to Jack Gott, -- to the group, that Judge Goeppinger had told me he intended to run Cliff Wells out of the police station.

Mr. Smith: We object to that as hearsay, incompetent, irrelevant and immaterial, and having no probative value.

The Court: I will sustain that objection as to what Judge Goeppinger may have said about Wells; that would be hearsay -- in fact I guess it would be double hearsay and should not be considered.

Q. (By Mr. Crawford) What did Jack Gott say?

(The witness started to answer the question and at the same moment about three lawyers for the defense started to object.)

Mr. Smith: May I object to that?

The Court: I will sustain that objection if it involves the hearsay testimony that he has just --

Mr. Crawford: May I approach the bench, Your Honor?

(Thereupon Mr. Crawford, Mr. Keith Smith talked with the Court at the bench.)

Q. (By Mr. Crawford) Now, Mr. Edwards, during the time that you have been engaged in the liquor business, during the past four or five years, have you ever had a wholesale liquor dealer stamp? A. No, sir.

Q. And are you aware of the fact that if you had such a
854] stamp it would be necessary to keep the 52-A and -B records for the United States Government? A. Yes, sir.

Q. And do you know what the 52-A record shows? A. It shows your purchases.

Q. And do you know what the 52-B record shows? A. It shows your sales.

Q. Now, Mr. Edwards, do you recall a conversation with Archie Moore during May of 1956? A. Yes, sir.

Q. And where did that conversation during May with Archie Moore take place? A. That occurred near the alley on 1st Street, between Detroit and Cincinnati, on the south side of the street.

Q. What was the topic of that conversation? A. I was trying to set him up for a pay-off.

Q. During the time that you had that conversation with Archie Moore, was there ever anybody else present? A. Not in the car.

Q. Did anybody else come by? A. Yes, sir.

Q. And who was that person? A. Jim Hardesty walked across the street in front of my car.

Q. And did you know Jim Hardesty? A. I have known him
855] for a long time.

Q. Did you call him over to the car, or speak to him? A. Yes, sir.

Mr. Crawford: You may inquire.

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Cross-examination by Mr. Malloy

Q. As I understand this now, Mr. Edwards, you say that you have been wholesaling the last couple of years? A. I didn't say that.

Q. Well, do you have a wholesale stamp? A. No, sir.

Q. Have you been wholesaling? A. Yes, sir.

Q. You have been violating the Federal Law then, haven't you? A. Yes, sir.

Q. Have you been given any immunity by the United States Attorney relative to the violation of Federal Law? A. Yes, sir -- or, no, sir.

Q. Well now, is it, yes, or, no?

Mr. Crawford: Well, if the Court please, Mr. Malloy knows that we have no power to grant what he calls immunity.

The Court: The witness may answer the question. If
856] necessary I will advise the jury further in that connection.

A. No, sir.

Q. (By Mr. Malloy) You may answer the question. A. No, sir.

Q. Well, Mr. Crawford has told you he wasn't going to file on you as a defendant in this conspiracy case if you would testify, didn't he? A. Yes, sir.

Q. Didn't he tell you he wouldn't file on you himself then with respect to these wholesale violations, if you testified in this case? A. No, sir.

Q. He did not? A. No, sir.

Q. You have told this story so often, that you have told the jury here, Mr. Edwards, and rehearsed it and repeated it so much, you just about half way believe it yourself, isn't that right? A. It's the truth.

Q. It is? Now, Mr. Edwards, the truth of the matter is that you conceived the idea relative to this deal you have been telling the jury, to achieve four purposes, one, to get back at Nolen Bulloch, who has been a thorn in your side all of your life; to put your brother, whom you hate, in the penitentiary; to eliminate Jay Jones, a political official with whom you
cannot deal, and to eliminate the competitors -- the cheap
857] competitors in the whisky business.

The Court: Wait just a minute.

Mr. Malloy: I was going to ask, if that is true.

The Court: Well, if you are going to ask him a question, -- I couldn't tell whether you were asking a question or making an argument; if you are going to ask a question, ask him one thing at a time; that is a compound question that it would probably be impossible for him to answer.

Q. (By Mr. Malloy) Well, you would be glad to see your brother Martin Edwards in the penitentiary, wouldn't you? A. Yes, sir.

Q. You would be glad to see Nolen Bulloch in the penitentiary, wouldn't you? A. Yes, sir.

Q. You would be glad to see Jay Jones in the penitentiary, wouldn't you? A. Yes, sir.

Q. You would be glad to see the chief bootlegging competitors in Tulsa put in the penitentiary. A. Well, will you identify those bootleggers?

Q. Well, the ones who have testified against you? A. Not necessarily.

Q. They are just -- they are your chief competitors, aren't they? A. No, they aren't.

Q. They aren't? A. No.

858] Q. Now let's talk a little bit about your testimony here in the past couple of days, Mr. Edwards; you testified here a couple of days ago, I think the first time you were on the stand, that you know Cleo Epps, is that right? A. Yes, sir.

Q. How long have you known Cleo? A. I think the first time I met Cleo Epps was '53.

Q. When? A. I think it was the first part of '53.

Q. And do you remember where? A. No, sir, I don't

Q. Who was with you? A. Nobody.

Q. Well, are you sure there wasn't anybody with you? A. Yes, sir.

Q. Now, you don't know where the meeting was, do you? A. No, I can't recall; I have met her several times since then.

Q. I am talking about your first meeting, Mr. Edwards? A. That's right; I don't remember exactly where it was.

Q. But you are sure nobody was with you? A. Yes, sir.

859] Q. Is that relationship with Cleo Epps one of a personal or an intimate nature? A. Was what?

Q. Is it one of a personal or an intimate nature? A. Definitely not.

Q. How many times have you seen her since you first saw Cleo Epps, Mr. Edwards? A. I have seen her quite a few times.

Q. Well, could you give us a guess -- I mean, every week? A. Well, will you clarify the question; do you mean just see her, or talk to her?

Q. Talk to her. A. Well, I haven't talked to her very many times.

Q. How many times? A. Not over -- three or four times.

Q. Since 1953 until the present time? A. That's right.

Q. And, Mr. Edwards, please, sir, will you tell us where those occasions were that you talked to her? A. Well, sir, --

Mr. Crawford: If the Court please, we object until this line of questions has been identified; it appears to be improper cross-examination; I don't recall that the witness testified about Cleo Epps.

The Court: Well, I think it is not.

860] Mr. Malloy: If Your Honor please, this witness --

Mr. Crawford: If you are going to make a statement and an offer of proof, I would like to approach the bench, if I may.

(Thereupon Mr. Malloy, Mr. Crawford and the Court conferred at the bench.)

The Court: The objection is overruled.

Q. (By Mr. Malloy) All right, now then, Mr. Edwards, you say that since 1953 you have only seen Cleo Epps and talked to her about three times? A. I said three or four I think, didn't I?

Q. All right, three or four times. And would you please tell this jury where those meetings took place? A. No, sir, they were not meetings.

Q. Well, where did you talk to her? A. I just ran in to her.

Q. On the street? A. I don't know -- I don't know.

Q. But you are positive that in 1953 that you were at this Bill's Truck Stop when Nolen Bulloch came in there?

A. Yes, sir.

Q. In company with Cleo Epps? A. In company with my wife.

Q. Cleo Epps was there, wasn't she? A. She was there when we got there.

Q. Yes. A. It is a public place.

861] Q. Mr. Edwards, directing your attention to your testimony here of a couple of days ago relative to your purchase -- alleged purchase from Don Gray, -- A. Yes, sir.

Q. Do you recall your testimony? A. Sir?

Q. Do you recall testifying at that time that you began purchasing whisky from Don Gray in February of 1953? A. Yes, sir.

Q. Is that true? A. Yes, sir.

Q. And is that as true a statement as any of the other statements that you have made here in this courtroom?

Mr. Crawford: If the Court please, I think that is an improper question for this reason -- may I approach the bench on that?

The Court: No, I will sustain the objection; he said it was a true statement. There is just one degree of truth.

Q. (By Mr. Malloy) Mr. Edwards, you appeared before what is known as a court of inquiry in August, on August 28, 1953, the court of inquiry that was conducted in the District Court of Tulsa County, by Judge Eben L. Taylor; do you remember that? A. A court of inquiry?

Q. Yes, at which Judge Eben L. Taylor -- A. Explain

862] that, Mr. Malloy.

Q. I will do my best. In a closed courtroom in the old courthouse August 28, 1953, with Judge Eben L. Taylor presiding, you were asked certain questions by Robert W. Wheeler, the then county attorney, and J. Howard Edmondson, relative to certain whisky activities? A. No, sir, that didn't happen.

Q. You never did testify -- A. No, sir.

Mr. Malloy: If Your Honor please, --

(Thereupon Mr. Crawford, Mr. Malloy and Mr. Ungerman conferred with the Court at the bench, and thereafter the following proceedings were had to-wit:)

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Q. (By Mr. Malloy) Mr. Edwards, I am going to try to refresh your memory about this testimony you said you didn't give, August 28, 1953; I will ask you if the following questions were not asked of you and that you gave the following answers at that meeting, at that hearing:

John Bill Edwards, called as a witness, being first duly sworn, testified as follows: Direct Examination by Mr. Wheeler: Question: State your full name, please, sir. Answer: John Bill Edwards. Question: Mr. Edwards, you understand that the penalties for perjury are in effect as far as your testimony is concerned at this hearing?

Answer: I think so, yes. Question: That is, that
863] you are required by your oath to tell the truth just like in any trial? Answer: I can't hear you. Question: That you are required to tell the truth, you are under oath, just as in any trial. Answer: Yes, sir. Question: You understand that anything that you tell us here cannot be used as the basis of any charge against you? Answer: Yes, sir. Question: That you are immune from prosecution, to whatever facts you testify today, were you so to do, you understand that? Answer: Yes, sir. Question: What is your occupation? Answer: I am a liquor dealer. Question: Where do you live? Answer: 3255 South Florence. Question: You operate from that place of your business? Answer: Yes, sir. Question: Are you the holder of a liquor stamp? Answer: Yes, sir. Question: What type? Answer: Retailer. Question: Who do you buy your whisky from, please? Answer: Well, various people, due to the fact that I have been in the whisky business a long time. I don't have any trouble finding the whisky; they call me. Question: The wholesalers call you? Answer: Yes, people call me every day wanting to sell me whisky. Question: Who are some of them that you buy from? Answer: Well, I don't know. They tell me names; whether they are true names or not I don't know. Question: You don't know anybody that you buy whisky from? Answer: I know them by the names that they give me.

864] Q. Were those questions asked you at that time and do you now recall that you gave those answers? A. I remember those questions and answers, but I don't remember where it was.

Q. But if the record shows that you made those statements in August 28, 1953, that is six months after you started

as you say, buying from Don Gray, in '52, isn't it? A. Yes, sir.

Q. So that you testified before that hearing under oath that you don't know who you bought from at that time.

Mr. Crawford: If the Court please, that is argumentative; he has read from the record.

The Court: Overruled.

Q. (By Mr. Malloy) Isn't that true? A. Yes, sir.

Q. And now you also testified here the other day before, we forget some of this testimony, please, sir, that you knew all of the defendants in this case? A. Yes, sir.

Q. Do you know Neil Williams? A. No, sir, I forgot about Neil Williams.

Q. Yes, now as I understand it with respect to these meetings that you had Mr. Edwards, was the first meeting in March of 1956? A. Meeting with whom?

Q. Well, the alleged meeting with Hirrlinger and Jay
865] Jones? A. Well, I have thought about that a lot, Mr. Malloy, and I think that was our first meeting.

Q. Pardon me, A. I think -- I have thought about that a lot and I think that was our first meeting.

Q. Now, you testified yesterday definitely, didn't you, that it was March 30, 1956, is that right? A. There was a meeting March 30.

Q. Well, was that the one you testified yesterday that Mr. Hirrlinger and Jay Jones attended? A. Yes, sir.

Q. Is it your testimony that at that time you gave to Mr. Jones $550? A. Yes, sir.

Q. And that Mr. Hirrlinger gave Mr. Jones $150, is that right? A. Yes, sir.

Q. And that as I understand it was for certain TV commitments relative to the campaign? A. Yes, sir.

Q. And upon your giving Mr. Jones the sum of $750 -- A. $700.

Q. $700, I beg your pardon, that at that time, without further conversation Mr. Jones shook hands with you and said, You can now control all of the whisky business in town if I get elected, is that right? A. He just didn't immediately say that; we talked for a couple of hours.

Q. Isn't that your testimony yesterday, Mr. Edwards?

A. When he -- after he received the money, he made me that promise.

Q. After he received this $700? A. Yes, sir.

Q. Now then I want to ask you a few questions, please, Mr. Edwards, relative to these alleged pick-ups that you made during the month of June? A. Yes, sir.

Q. 1956. Would you repeat for the jury again, please, the people you collected from in June. A. In June?

Q. Yes. And the amounts that you allegedly picked up from them. A. I picked up from Lee Johnson on or about the first of June, I picked up from Lee Johnson; I picked up from Elmer Oakley, Bill Curlee, Ben Bly, and on June 15th I picked up from John Hood -- that's all I can remember right now.

Q. How much did you pick up, in total? A. I don't know --

867] Q. Allegedly pick up, in total? A. I don't know; I can identify the men I picked up from individually and I told you what I picked up.

Q. Well, you tell me. A. From whom?

Q. Well, from the people that you allegedly say you picked up money from. A. Lee Johnson on or about the first of June I picked up $200. Bill Curlee, $200; Ben Bly, $200; Little Griff, I picked up from him $200; on June 15 I picked up $600 from John Hood; I picked up $400 from Elmer Oakley -- oh, I picked up $200 around the first of June from Archie Moore. I believe that's all.

Q. Now then if I understand your total pick-up, totals about $1800, wouldn't that be substantially correct? A. I haven't added it up.

Q. Well, supposing that we take your figures, and you add $200 and $400 -- that is $600, isn't it -- huh? A. Yes, sir.

Q. That's right, and $200 is how much? A. That would be eight.

Q. All right and six hundred? A. That would be fourteen.

Q. And two hundred? A. That would be sixteen.

868] Q. And two hundred? A. That would be eighteen.

Q. Total of eighteen hundred, is that right? A. Yes, sir.

Q. Now then I believe you have testified that you had a meeting at -- was it your house with Jack Gott relative to a division of the -- of this money? A. Yes, sir.

Q. And who attended that meeting, please, Mr. Edwards? A. Jack Gott and Charlie Hirrlinger.

Q. Charlie Hirrlinger; did he bring some alleged pay-off money to this meeting? A. He brought a small amount; I don't

know how much.

Q. Well, it would be much smaller than that wouldn't it? A. He didn't bring as much as I did.

Q. And at that time as I understand it you made a distribution of the alleged pick-up, is that right? A. Yes, sir.

Q. And that's the only time as I understand it that you made an alleged -- that you distributed any money, isn't it? A. That was the only time that we split the money percentage-wise.

Q. Right. And as I understand your testimony and according to your last arrangement, after they had cut you down as you say, you were supposed to receive one-third of ten per cent of the total less certain expenses? A. Yes, sir.

869] Q. Now as I understand the expenses that you have testified to that were supposed to be taken care of, Livingston was to receive $500, right? A. Mr. Malloy, that's not the way it was set up.

Q. No, I say when you finally got it worked out that is what it was, wasn't it? A. No, sir.

Q. I see. But at any rate you were to get one-third of ten per cent? A. That's right.

Q. And you received as your portion at that July meeting the sum of $200? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Does that figure out? A. Mr. Malloy, you are confused.

Q. Just answer the question; I would like to know who is confused. A. I think you are.

Q. Just let me ask you a question; that is what you received, $200, wasn't it? A. Yes, sir.

Q. That was supposed to represent one-third of ten per

870] cent? A. Not of the general collection; that didn't pertain to general --

Q. That's the only time you ever split any money according to you, isn't it? A. Percentage-wise.

Q. Right. Now let me ask you a few questions relative to your relationship with Martin Edwards. Martin Edwards is a defendant in this lawsuit, isn't he? A. Yes, sir.

Q. What is his relationship with you -- he is your brother, isn't he? A. Yes, sir.

Q. Is he a step-brother? A. No, sir.

Q. Half-brother? A. No, sir.

Q. Is he a full brother -- he is a full brother, isn't he? A. That's right.

Q. Now, you have some other members of the Edwards family, haven't you? A. There is six of us children.

Q. Jack Edwards is one, isn't he? A. Yes, sir.

871] Q. And Cordon? A. Yes, sir.

Q. And Walter? A. Yes, sir.

Q. You have a sister? A. That's right.

Q. Your mother is deceased? A. Yes, sir, that's right.

Q. Your father is living? A. That's right.

Q. Now, Mr. Edwards, let me ask you, back a few years ago, shortly after your marriage you moved to a house four or five blocks from where the rest of your family lived, is that right -- in other words, you moved out of the house -- you and your wife took up your residence some distance, a little ways from where the family lived? A. Well, that was in '33.

Q. That's about right. Do you remember that? A. And I lived shortly -- a short distance from my family.

Q. Well, how far did you live from them? A. I don't even remember where I lived right now.

Q. Well, where were you working then; where were you working? A. I was working at the Mid-Continent Refinery.

Q. Do you remember that you and the family used to go

872] out together, all of you out to the plant in one car?

A. We have, on occasions.

Q. Do you remember getting so angry at members of your family because your mother didn't buy certain presents for you, that you wouldn't even --

Mr. Crawford: If the Court please, we object to this line of questioning about his relations with his family, back in 1933.

The Court: That seems a little remote.

Mr. Malloy: May I approach the bench?

(Thereupon Mr. Malloy, Mr. Crawford and Mr. Rucker conferred with the Court at the bench and thereafter the following proceedings were had, to-wit:)

The Court: Objection is overruled. I don't know whether -- I don't know that you had finished your question.

Mr. Malloy: No, I don't believe I had.

The Court: Then you were interrupted.

Mr. Malloy: Would you, Mr. Lindsay, read the portion of the question for me.

(Thereupon the Reporter read the last question.)

Q. (By Mr. Malloy: That you wouldn't even ride in the car with the members of your family, but chose to walk three extra miles to the plant rather than ride with them.

Mr. Crawford: If the Court please, I believe I objected
873 to that question and the objection was sustained.

The Court: Well, I overruled it; I changed my mind.

A. Mr. Malloy, I don't have any idea what you are talking about.

Q. Then you don't remember the incident, that's all.
A. That's right.

Q. All right. A. That was twenty-five years ago.

Q. I just merely asked you if you remember it you just answer, yes, or, no, please. A. I don't remember.

Q. All right. Now, you have been in the whisky business from time to time with Martin Edwards, your brother, haven't you? A. I never have been in partners with him.

Q. I said, you had business dealings with him? A. Oh -- oh, yes, sir.

Q. Yes. Do you remember in 1948 that Martin loaned you two cases of gin? A. Yes, sir.

Q. Or two cases of some other kind of whisky? A. No, I think he just loaned me --

Q. Let me ask the total, then you tell me whether I am wrong? A. All right.

Q. 1948 that Martin loaned you two cases of gin and two
874 cases of some other kind of whisky and that you told Martin that you would pay him back, and you made a delivery at 13th and Harvard and Martin complained that there were two cases missing, and that because Martin complained to you, you wouldn't speak to Martin for two years. A. No -- no.

Q. That didn't happen? A. No.

Q. All right. And that later that you admitted that

you thought that Martin's wife or her brother had stolen those two cases of whisky? A. That's right.

Q. Then you did accuse his wife and brother of stealing the two cases of whisky, didn't you? A. One case.

Q. One case -- I see -- all right. Now that was in 1948, wasn't it. A. I don't know but I remember the incident.

Q. Then in 1950 which was two years later and you had started speaking to Martin again, Martin borrowed a stake from you and -- a so-called stake, to go back in the business, didn't he? A. When was this?

Q. 1950? A. Well, he has borrowed from me several times.

875] Q. Well, do you recall this particular incident in which he borrowed a stake from you and as a part of the loan you insisted that he buy his whisky from you and he did buy whisky for about -- until all the money was paid back and six months later, and then he quit you, do you remember that? A. No, not the way you ask that question, I don't remember that.

Q. And after he quit you didn't you tell Lee Johnson and others that Martin had beaten you out of $3,000 because he wouldn't buy from you any more? A. No, sir.

Q. No, sir, that didn't happen? Now in 1951, during 1951 and until 1952, you didn't have any dealings with Martin Edwards at all because he was in Oklahoma City, wasn't he? A. I don't know -- when was this, Pat?

Q. '51 and '52, he was operating the Tap Room over there, and wasn't even in Tulsa, was he? A. Not in Oklahoma City.

Q. Well, at Edmond. A. Right, sir.

Q. And he ran that place over there for a year and lived over there, didn't he? A. About that time.

Q. He wasn't even in Tulsa, is that right? A. Sir?

876] Q. He wasn't even in Tulsa during that period of time, was he? A. No, sir.

Q. Now in 1954 you accused Martin Edwards and your brother Jack of stealing from you $10,000, isn't that right? A. Yes, sir.

Q. And did you file any charges against them for that? A. No, sir.

Q. During the same period of time, Mr. Edwards, 1954, weren't you having considerable trouble with the income tax people who were claiming that you owed them about $31,000, extra dollars? A. Yes, sir.

Q. Was this alleged steal supposed to be -- take part

of the -- an attempt to write that off as a loss? A. No, sir.

Q. Did you ask Martin Edwards to take a lie detector test with respect to this steal? A. Yes, sir.

Q. And did you ask Jack Edwards to take a lie detector test? A. Yes, sir.

Q. And did you ask Martin's wife to take a lie detector test? A. Yes, sir.

Q. And Martin's wife's brother? A. I don't remember
877] about the brother; I may have; I may have included the whole family.

A. And as a matter of fact, didn't you also suggest that your wife take a lie detector test in connection with the theft of that money? A Yes, sir, and I agreed to take one myself.

Q. That you didn't steal it from yourself? A. That's right.

Q. Is that right -- now, you haven't had any particular dealings with Martin since 1954, have you? A. I haven't spoken to him.

Q. Now at the time this $10,000 item came up about stealing, Martin and Jack allegedly stole your $10,000, when you were having your income tax trouble, -- A. It was after the income tax troubles.

Q. Wasn't it right around the same time -- when did you settle for your income tax troubles, if you ever did? A. I did.

Q. Weren't you filed on for income tax fraud? A. Yes, sir, but I got fined and paid for it, and I settled up my taxes.

Q. I see. Well, that was in '55, wasn't it? A. It must have been, Mr. Malloy, because they told me I was -- I had been cleared through '54.

878] Q. So it was in '55 before you ever cleared up this matter, wasn't it, and that is the -- this incident relative to the stealing was in '54 when you were under investigation, still in trouble? A. It was -- that's right.

Q. That's right. Now during that time as a matter of fact, Jack -- pardon me. A. Do you want me to elaborate on what the income tax people did about it?

Q. No, I just want to ask you questions. This brother Walter, I want to ask you a few questions about Walter if I may. A. All right, sir.

Q. Walter has never been in ~~the whisky~~ business has he? A. No, sir.

Q. He works out here at the Mid-Continent plant?

A. Yes, sir.
Q. How big a man is he? A. Oh, he is a little man.
Q. About 130 pounds? A. Yes, sir.
Q. You have had several fights with Walter haven't you, and beat him up or attempted to? A. Yes, sir.
Q. He is your brother? A. That's right.
879] Q. Full brother? A. That's right.
Q. Did you ever tell anybody in this town that you would get somebody from Kansas City to kill your brother Martin Edwards? A. No.
Q. You never told anybody? A. No.
Q. You are sure of that? A. Yes, sir, I am sure of that.
Q. Well, you had in mind, haven't you --

Mr. Crawford: Oh, if the Court please, we object to that type of questioning.

The Court: Overruled.

Q. (By Mr. Malloy) You may answer the question. A. Sir?
Q. You may answer it.

The Court: You may answer the question.

Q. (By Mr. Malloy) I asked you if you had it in mind; haven't you? A. No.
Q. No -- do you know a fellow by the name of Art Hames? A. Yes, sir.
Q. During the time that you allegedly accused both of your brothers of stealing this money, didn't Art Hames try to get you to sit down with Jack and Bill and discuss it?
880] A. Jack and who?
Q. Jack Edwards and Martin Edwards? A. I don't believe he did; but I have talked to Art quite a bit about it.
Q. I see. A. But I don't believe he tried to get me to do that.
Q. Did you ever tell one of the defendants, F Lee Johnson, that you would send Martin Edwards to the pen if you had to frame him? A. No, sir.
Q. Didn't say that? A. No, I didn't.
Q. Do you remember when your father was sick out here in the hospital during the year 1953? A Was it in '53?
Q. Well, it's your father -- don't you know? A. I

remember he has been in the hospital several times.

Q. He was out there most of '53; did you ever go out to see him? A. Which hospital was this?

Q. You tell me.

Mr Crawford: I think the --

The Court: Well, you are asking the question.

881] Q. (By Mr. Malloy) Well, was he ever in the hospital?

The Court: Just a moment.

Mr. Malloy: All right.

The Court: Clarify the question.

Q. (By Mr. Malloy) Hillcrest Hospital? A. In '53?

Q. Yes, sir. A. I don't know whether I did or not, Pat.

Q. Don't you know that your father was almost near death in '53, Bill, at the hospital at Hillcrest? A. No, I didn't know that he was.

Q. But you never did go see him anyway out there? A. I don't know.

Q. When was the last time you talked to your father? A. Two days before I got robbed.

Q. In 1954? A. Yes, sir.

Q. You think he had something to do with the robbery? A. I think he knew about it.

Q. Do you remember in 1954 that you lost some whisky to the county and you first accused Martin of it, of your being -- of him being the cause of your losing it? A. Yes, sir

Q. And then you later accused Tex Rucker of it, didn't you? A. No, sir.

Q. You did not? A. No, sir.

882] Q. Now, Bill, I want to talk to you just a little bit if I may about you and Nolen Bulloch. A. All right, sir.

Q. Is that all right? Bill, I have here photostatic copies of articles that Nolen Bulloch has written about you all through the years? A. Yes, sir; he sure has.

Q. He has held you up to ridicule in some instances to the entire Tulsa County and northeastern area that reads the Tribune, hasn't he? A. That's right

Q. As a way of illustration, do you remember the time that he had you running around in an automobile and the housewives at each corner telling the police where you were? A. Yes, sir.

Q. That made you look ridiculous, didn't it? A. Yes, sir.

Q. Do you remember also that he has made you appear to be a bully on occasions? A. Be a what?

Q. A bully? A. Well, now, I don't remember that.

883] Q. Do you remember when he wrote up the story about your hitting an officer in the back of the neck when he was booking you? A. I remember the article, but that wasn't true.

Q. Well, in other words, Nolen at any rate got it up, didn't he? A. He sure did.

Q. It made it appear that you had struck a man from the rear? A. Yes, sir.

Q. And the sequel to the story, as a matter of fact he also made it appear that you weren't quite the boxer you think you were? A. That's right.

Q. Because the way he wrote it up this fellow beat you up, didn't he -- the officer? A. That's right.

Q. He has constantly kept before the public here in Tulsa County, and in this area, your whisky dealings through the entire time of this alleged conspiracy, has he not? A. Not through -- not throughout.

Q. Well, let's go back; he wrote articles about you in 1948, didn't he, Bill? A. Yes, sir.

Q. About your whisky operations? A. Yes, sir.

884] Q. '49? A. Yes, sir.

Q. '50? A. Yes, sir.

Q. Do you remember the big story as a matter of fact that was headlined, April 22, 1950, says, Bear in Kansas City probe investigated and believed. Tulsa's Bill Edwards testifying to it at a grand jury probe in Kansas City. In other words, he kept your name before the public as a dealer -- notorious whisky dealer, didn't he? A. Yes, sir.

Q. He also published as a matter of fact a picture of the palatial home that you paid $80,000 for, didn't he? A. I didn't pay $80,000 for it.

Q. Nolen Bulloch wrote an article though in which he allegedly stated that you paid $80,000, didn't he? A. That's right.

Q. Do you remember as a part of that article, it also

said that you paid $56,000 cash? A. Yes, sir.

Q. Didn't you hold him responsible for putting the Federal Internal Revenue Department on you because of that story? A. Yes, sir.

Q. Now when was that? A. '51 when it happened -- I
885] believe it was '51.

Q. Well, let's find out. I have got so many clippings here, Bill, it is a little difficult, a little tough to find some of them sometimes. I think we have got it here.

Well, at any rate, he wrote a story, and you remember the picture of your palatial estate that he said you paid $56,000 cash? A. Yes, sir.

Q. That got the Internal Revenue boys on you, you didn't like that, did you? A. Well, I don't know that it did.

Q. Well, you thought he did though; you thought he did, that's the point? A. Yes, sir.

Q. Now then do you remember the story he wrote about you in 1954, that you and Cleo Epps had formed a whisky combine for the purpose of taking over the whisky business in this county; do you remember him writing that story about you, Bill? A. I remember an article about that time -- was Cleo Epp's name in it?

Q. I'm just asking you if you remember, if you don't, just say you don't. A. No, I don't.

Q. Well, at any rate, down through the years as evidenced by these photostatic copies of articles he has written stories about you and against you that have been in the Tulsa
886] Tribune, is that right? A. Yes, sir.

Q. All right.

Mr. Crawford: If the Court please, may I have the privilege of examining these articles?

Mr. Rucker: I'm going to try to straighten them out.

Mr. Crawford: I will wait until they are straightened out.

Q. (By Mr. Malloy) What was your relationship with your mother, Bill?

Mr. Crawford: If the Court please, I think that question needs clarification; he was the son of his mother.

The Court: Yes, I think --

Mr. Malloy: Pardon me --

The Court: I think the question is ambiguous.

Mr. Malloy: All right, sir, I will ask it directly.

Q. (By Mr. Malloy) Do you remember Bill being in Oklahome City, refereeing a boxing match over there, or boxing tournament, at the time at which your brother Jack was there and your brother Martin, and you had had some misunderstanding with your mother and you told them that one of the happiest day of your life would be when you saw your mother in her casket; do you remember making that statement, Bill? A. No, sir, I don't.

Q. Did you make it? A. I don't know whether I did or
887] not.

Q. Did you feel that way about her Bill? A. At what time?

Q. At any time. A. We didn't get along; the last ten months she was alive.

Q. Bill, you can't get along with anybody, can you? A. Oh, yes, sir.

Q. You are getting a little bit mad at me, just for asking you questions, aren't you? A. No, Mr. Malloy, I am amused at you.

Q. Well, let me say this to you, Mr. Edwards -- let me ask you this, Mr. Edwards. You consider your relationship as testified to here under oath about your relationship with your father and mother, your mother and your brothers, do you consider that amusing? A. No, sir.

Q. Well, that's what we have been talking about. A. I din't say I was amused at that.

Q. Have you ever been examined by a psychiatrist?

Mr Crawford: We object.

Mr. Malloy: Let him answer the question.

The Court: Objection overruled.

A. No, sir.

Q. (By Mr. Malloy) Well, don't you think a person that
888] says that about their mother ought to be --

The Court: That's argumentative and improper.

Q. (By Mr. Malloy) May I ask this question, Mr. Edwards; you testified the other day -- yesterday I believe it was that in 1956 in November you were out of business? A. Out of the --
Q. Out of the whisky business, didn't you? A. When was that?
Q. November 1956 -- well, didn't you say -- A. I testified I hauled three loads in November.
Q. Well, wasn't it November 1956 the alleged meeting that you called Nolen Bulloch out there to your place, or wherever it was, and said something about, I am out of business, and you have got to help me and Nolen offered to go in the whisky business and so on; do you remember that? A. Yes, sir, that's right.
Q. And was that because you were allegedly not in on the alleged fix, so, was that the reason you were out of business? A. Yes, sir.
Q. Well now, as I understand your testimony, this so-called alleged fix only was on from June to July 1956, wasn't it? A. As far as I was concerned it was on from June -- 1st of June until the middle of July.
Q. And that's all? A. That's all as far as I was con-
889] cerned.
Q. Now, prior to that time weren't you in the whisky business? A. Yes, sir.
Q. Prior to any alleged fix? A. Yes, sir.
Q. You had been in the whisky business for a long time, Bill? A. A long time.
Q. All during that time you -- there haven't been fixes that you were involved in, have there? A. This was the first one I was ever involved in.
Q. All right, you were able to make money continuously and substantially all during the years without any fix, is that right? A. Yes, sir.
Q. All of a sudden in November, because you aren't in on the fix, you are out of business? A. Not all of a sudden in November.
Q. Well, in November anyway. A. It gradually started going down.

Q. But you were out of business -- right? A. Yes, sir.
Q. All right. You didn't know anything about any of
890] these -- about any other pay-offs before, involving Cleo Epps or Cecil Boone or Red Carter or anybody? A. Only by hearsay; I wasn't involved.
Q. But you consider yourself to be the biggest operator in this area? A. No, sir, I don't.
Q. Were you ever contacted relative to those alleged deals? A. Explaint that.

Mr. Crawford: I object to that; I think it is confusing, Your Honor.

Mr. Malloy: I will withdraw the question.

Q. (By Mr. Malloy) This deal you have told here to this jury relative to a conspiracy, you started battling this deal back in November or December of '56, didn't you? A. Long before that.
Q. You didn't come to Mr. Crawford at that time, or any law enforcement agent, did you -- at first -- I will be more specific; you first took this story, or versions of it, or some semblance of it, to whom? Tommie Frazier? A. First?
Q. Well, who did you take it to first? A. I'm trying to think; I don't think I can remember; I have told it to so many people -- I don't know.
Q. Tommie Frazier is a political enemy of Jay Jones, isn't he? A. I don't know.
Q. Well, weren't you active in Frazier's campaign for
891] County Attorney? A. I definitely wasn't.
Q. I see. Let me ask you this, Mr. Edwards. Didn't you take this story to the Tulsa World before you ever took it to any law enforcement agent? A. No, sir.
Q. Well, you did take it to somebody in the County before you came up here to Mr. Crawford, didn't you? A. Yes, sir.
Q. They turned you flat down, didn't they? A. No, they didn't.
Q. They didn't do anything about it did they? A. Yes, they did.
Q. They did? A. They sure did.
Q. Did they file any charges? A. Yes, sir.
Q. Relative to an alleged conspiracy, pay-off and so forth? A. It was connected with the conspiracy.

Q. I want to ask you just one or two more questions, Bill. At this first meeting or at the meeting when the alleged men in charge of this conspiracy made and decided upon a split, didn't you testify yesterday that Nolen Bulloch was to be
892] given a certain percentage? A. Yes, sir.

Q. And as I understood your testimony that percentage was to be for what? A. That was for papers -- for lack of paper coverage on our activities.

Q. What reporter of the Tulsa World was supposed to be cut in on the percentage? A. Nolen Bulloch was the only reporter.

Q. You didn't even talk about the Tulsa World newspaper with respect to their coverage and exposure of this business? A. No, sir, because they --

Q. Just answer the question, don't -- A. No, sir.

Mr. Malloy: That's all.

TRANSCRIPT OF RECORD

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inclusive

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vs

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Appellee.

Volume No. IV -- Pages 513 - 724

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Filed July 30, 1957

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892] Cross-examination by Mr. Ungerman

Q. Mr. Edwards, directing your attention to this story that you told yesterday afternoon, when was the first time you came into the Federal Building with that story, that is, this particular building? A. When I was subpoenaed for this trial.

Q. That's the first time you ever walked into the Federal Building to tell anybody this story that you related on the witness stand yesterday? A. Yes, sir -- are you -- do you mean, an official of the Government?

893] Q. I am talking -- I think you understood my question, or did you understand.

The Court: Maybe he did, maybe he didn't; you perhaps did.

Q. (By Mr. Ungerman) All right, did you understand my question? A. No, sir.

Mr. Ungerman: Would you mind repeating the particular question that I asked him, Mr. Reporter.

(Thereupon the Reporter read the question.)

A. Yes, sir.

Q. You had never discussed this story with any Federal Official in this building prior to yesterday when you mounted that witness stand, is that true or false?

Mr. Crawford: If the Court please, I object -- I think the problem is, when he is talking about, in this building; does he mean Federal Officials, such as myself, who work in this building, or does he mean the physical location of this building; that is the difficulty.

The Court: Objection overruled; you may ask questions later to clarify it if you care to.

Mr. Ungerman: Repeat that question.

894] (Thereupon the Reporter read the question.)

A. Well, there is two questions there, isn't there?
Q. (By Mr. Ungerman) Just answer the question.
A. I can't answer the question.
Q. You don't know the answer. A. Yes, I know the answer.
Q. Well, let's have it. A. But the way the question is phrased --

The Court: When did you first talk to Mr. Crawford -- you have had conversation with Mr. Crawford about this case haven't you?

A. Yes, sir.

The Court: When did you first discuss with Mr. Crawford the testimony that you have given at this trial?

A. When was the grand jury convened -- what date?

Mr. Crawford: The date was --

The Court: I have forgotten.

Mr. Crawford: January 8, 1957.

A. I discussed this case with Mr. Crawford shortly before that date.
Q. (By Mr. Ungerman) For the first time? A. Yes, sir.

The Court: Did you testify before the grand jury?

A. Yes, sir.
Q. (By Mr. Ungerman) Can you fix the exact date, Mr.
895] Edwards that you first discussed this story with B. Hayden Crawford, the United States District Attorney? A. Can I -- no, sir, Irwin, I don't believe I can; I talked with him about it shortly before the grand jury.
Q. Had you already been subpoenaed as a witness before the grand jury when you first talked to Crawford about your testimony? A. I never was subpoenaed before the grand jury.
Q. Well, when you made your voluntary appearance.
A. Sir?
Q. When you made your voluntary appearance. A. Well,

what is the question.

Q. The question is, was that the first time you ever talked to Crawford about this testimony that you gave yesterday? A. In front of the grand jury, I talked to Crawford before I talked to the grand jury.

Q. How long before; that is the question. A. Well, I can't remember.

Q. You can't remember; and that was -- A. It was -- it was a short time.

Q. Less than four months ago but you can't remember the time? A. I can't remember whether it was a week or ten days or two weeks; it was a short while.

Q. Just a short while? A. Yes, sir.

896] Q. Was that the first time that you had ever talked to Crawford and told him the story that you related on the stand here yesterday? A. Yes, sir.

Q. Who accompanied you too -- strike that.

Where did your first conversation with Mr. Crawford about this testimony take place? A. In the Adams Hotel.

Q. In the Adams Hotel? A. Yes, sir.

Q. In a room at the Adams? A. Yes, sir.

Q. Not in the Federal Building? A. No, sir.

Q. Who accompanied you to the room? A. Sid Steen.

Q. What position does Sid Steen occupy if any in the City of Tulsa? A. He is a World reporter.

Q. In other words, Sid Steen of the Tulsa Daily World set up a meeting for you and Hayden Crawford to discuss this story, is that right? A. No, sir.

Q. Who set up the meeting? A. I did.

897] Q. You called Crawford? A. No.

Q. Who called Crawford? A. Sid Steen.

Q. Then in other words, Sid Steen made the appointment for you, didn't he? A. That's right.

Q. Had you ever personally met Mr. Crawford prior to that time? A. No, sir.

Q. Now who else was present at that meeting at the Adams Hotel? A. John Morely.

Q. Who? A. John Morley.

Q. Assistant District Attorney? A. Yes, sir.

Q. And who else? A. That's all.

Q. Any Court Reporter present? A. No, sir.

Q. When did that take place?

Mr. Crawford: The question has been asked and answered.

Mr. Ungerman: No it hasn't.

898] Mr. Crawford: Several times, Your Honor; he stated -- well, may I state my objection?

Mr. Ungerman: Excuse me.

Mr. Crawford: I object to this; he is asking -- he has asked the question several times, when was the first time he talked to me; he stated the first time he talked to me was in the Adams Hotel, which was a week, ten days, two weeks prior to the grand jury.

The Court: Can you fix the date with any more certainty that you have in your previous answers?

A. Your Honor, I don't believe I can, but that was the first time I had ever talked to Mr. Crawford, that one and the same meeting.

Q. (By Mr. Ungerman) Mr. Edwards, who rented the room that was used at the Adams Hotel for that conference? A. I don't know.

Q. Did you rent it? A. No.

Mr. Crawford: If the Court please, that calls for a conclusion that the room was rented.

Mr. Ungerman: I never heard of them giving one away.

Mr. Crawford: You might hear about it at this time.

The Court: I will overrule the objection.

A. I don't know that it was rented; I don't know who rented it.

Q. (By Mr. Ungerman) Do you remember what floor it was
899] on? A. Yes, I believe it was on the 3rd floor.

Q. Was it an ordinary room? A. Yes, just a room.

Q. Just a room; you didn't pay for the use of the room? A. No, sir.

Q. Now what time of the day or night did that conference start at the Adams Hotel? A. I believe it was the early afternoon -- maybe 1 or 2 o'clock.

Q. Do you remember whether it was before Thanksgiving? A. Irwin, I don't remember when it was.

Q. You don't remember when it was? A. I don't remember whether it was before Thanksgiving.

Q. Do you remember when the publicity came out about the calling of a grand jury, -- don't you? A. Yes, sir, I read the papers.

Q. Was this conference that you had with Mr. Crawford, Mr. Steen and Mr. Morley prior to the time that any publicity came out about the calling of a grand jury? A. I think it was.

Q. Did Mr. Crawford take a statement from you at that time? A. No, sir.

Q. Did you have any other conferences with him -- strike
900] that.

How long did that conference last that afternoon? A. Oh, two to three hours.

Q. Did you have any other conferences following that conference with Mr. Crawford? A. I don't believe I did.

Q. You never did? A. Conference before the grand jury?

Q. I just want to know when the next conference took place? A. Well, I talked to Mr. Crawford in the last few days.

Q. Between the time that you testified before the grand jury and the time that you told this story to Mr. Crawford at the Adams Hotel in the presence of representatives of the Tulsa Daily World, how many conferences did you have with Crawford? A. I don't believe I had any more.

Q. Never had any more? A. I don't believe I did.

Q. Do you mean to tell this Court and jury under oath, Mr. Edwards, that Mr. Crawford used you as a witness before the grand jury and you had no further conferences with him at all? A. Yes, sir.

Q. And that is true? A. Yes, sir.

Q. How many times since that conference that you had with
901] Mr. Crawford in the Adams Hotel have you gone over this story with representatives of the Tulsa World? A. None.

Q. Never have? A. None.

Q. Never talked to Johnny Walker about this testimony? A. No, sir.

Q. You are sure about that? A. I am positive.

Q. Never talked with Sid Steen? A. No, sir.

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Q. Or any other representative of the World? A. No, sir.

Q. Now how many times since you testified before the grand jury have you told this story to anybody other than on the stand here yesterday? A. I don t know.

Q. You can't remember? A. I don't know.

Q. Well, can you remember or can't you remember? A. I don t know, Irwin; I don't know whether I have told it to anybody or not.

Q. You can't remember whether or not you have told it to anybody or not, is that correct? A. That's right?

Q. That's all been within the last four or five months.

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* * * * *

Q. (By Mr. Ungerman) Mr. Edwards, can you give us the date that you purchased this large home? A. I believe it was in 50 -- or, December of 1950.

Q. Are you sure? A. I think it was; there is a record of that at the courthouse.

Q. I realize that. And what did you pay for it? A. I paid $40,000.

Q. How did you pay the $40,000? A. In cash.

Q. By cash, do you mean -- A. That's right.

Q. I don't have $40,000, but I mean, currency? A. Yes, sir.

Q. Directing your attention to the time that you say that Griffing gave you $200 do you remember what date that was? A. It was around the 1st of June.

Q. What day of the week was it? A. I don't remember.

Q. You don't remember? A. No, sir.

903] Q. You say that John Hood gave you $600? A. Yes, sir.

Q. When was that? A. Around the middle of June -- I think it was June 15.

Q. What day of the week was it? A. I don't know.

Q. You don't know? A. No, sir.

Q. Well, how do you fix June 15, as the date? A. Well, I think it was June 15, that's the way I remember it.

Q. Could you be mistaken as to the date? A. Sir?

Q. Could you be mistaken as to the date? A. Why it could have been the 13th or it could have been the 16th; I think it was the 15th -- I know it was around the middle of June.

Q. Now directing your attention to a conversation that you claim to have had with the defendant Livingston at the Mohawk Amusement Park, when did that allegedly take Place? A. That was in June, sometime in June.

Q. Of what year? A. 1956.

Q. Any day or night? A. Day time.

904] Q. What hour of the day? A. I believe it was in the afternoon.

Q. How do you fix the month of June 1956, as being the time? A. That was the month that I was most active in this conspiracy thing.

Q. What other meetings do you claim now to have had with the defendant Livingston and where and when. A. I had a meeting with him at -- I picked him up at the bowling alley on South Main; I had a meeting with him --

Q. When was that? A. That was in June.

Q. What day in June? A. I don't know. It was at night and it was raining.

Q. Raining in June of '56, in Tulsa? A. Yes, sir.

Q. All right. A. I had a meeting with him at 15th and Peoria.

Q. When was that? A. That was during the noon hour.

Q. What day? A. I don't know.

Q. You have no idea when it was? A. No, sir.

905] Q. What other meetings do you claim you had with him?

A. I had a meeting with him on the north side of the Pine Theatre -- the old Pine Theatre on North Cincinnati.

Q. When was that supposed to have taken place? A. That was in June -- that -- and I think that was -- I think it was in the afternoon.

Q. Any other meetings you claim you had with Paul Livingston? A. Yes, sir, I met him at 31st and Yale.

Q. 31st and Yale -- when? A. That was in July.

Q. Of what year? A. 1956.

Q. What date in July? A. I don't know.

Q. What time of the day was it? A. It was at night.

Q. All right, what other meetings do you claim to have had with him? A. That's it.

Q. That's all? A. Uh huh.

Q. You claim then to have four meetings with him during the month of June of 1956 and July of '56, is that right?

A. That was just me and Paul alone.

Q. Were you running your whisky business at that time?

906] A. Yes, sir.
Q. Was it flourishing? A. It was good.
Q. Were you hauling your own liquor into Oklahoma? A. In June?
Q. June and July? A. No, sir.
Q. You weren't making any trips out of the City to bring it in? A. Out of the City?
Q. Yes. A. Yes, sir, I was going out of the City.
Q. You didn't keep any whisky in the City of Tulsa at all, did you? A. No, sir.
Q. Never have -- isn't that a fact? A. Oh, yes, I have too.
Q. When? A. It was back in '45, '46, '47, '48, and I believe that is the only time that I kept my whisky in the City.
Q. When do you claim to have given Robert Scott, assistant county attorney, a case of Scotch? A. When?
Q. Yes. A. It was in the middle of -- of the summer --
907] early part of the summer I will say in '55.
Q. In '55; was that the first time you had even given any official of the County of Tulsa anything at all? A. Yes, sir, I believe it was.
Q. Now, do you tell us now since you have had the time to reflect on your testimony that you testified before a Court of Inquiry that was held on the second floor of the old courthouse in the large courtroom occupied by Honorable Eben L. Taylor, District Judge? A. Yes, sir, I didn't remember being there until I heard the questions and answers. I remember those questions and answers.
Q. Now you tell the jury that when you testified first that you were wrong, is that right? A. I was wrong on what?
Q. On the fact that you had not testified before a Court of Inquiry. A. I think I explained that. I didn't remember the inquiry but when Mr. Malloy read me the questions and answers I remember those questions and answers, so I was there.
Q. You were there? A. Yes, sir.
Q. Did you ever testify at any other courts of inquiry, or before any other tribunal? A. Yes, sir.
Q. When and where? A. I testified in front of a grand
908] jury at Kansas City and I think that was in the latter part of '49 and part of '50, I think.
Q. Any other tribunal? A. Oh, I have been in court a lot of times.
Q. You can't tell us how many times you have been in court can you? A. I can tell you pretty close.

Q. Well, when you related the stories of your convictions yesterday you left off one conviction, didn't you? A. Not on liquor, I didn't.

Q. Did you leave off a conviction of any kind yesterday? A. In Tulsa County?

Q. In any place in the United States of America? A. Misdemeanor or felony?

Q. Any kind of a conviction. A. Well, I have been fined for reckless driving twice I believe here in Tulsa.

Q. Let's eliminate, let's limit it to the United States Courts. A. Sir?

Q. Did you leave off a conviction involving a violation of the laws of the United States? A. Oh, I was convicted of fraud on my income tax return.

Q. You didn't tell us that yesterday, did you? Q. Well,
909] I -- I didn't think that had anything to do with the conspiracy; I didn't deliberately refuse to tell it, -- I think -- it has been pretty well publicized.

Q. But you have been convicted of violating the Internal Revenue Code relative to the payment of income tax? A. Yes, sir.

Q. And the particular charge was that you falsely rendered a return to the Collector of Internal Revenue for the District of Oklahoma, isn't that correct? A. Yes, sir.

Q. Now, Mr. Edwards, your business flourished through the years, didn't it? A. Well, it --

The Court: Now, Mr. Ungerman --

Mr. Ungerman: Leading to one question.

The Court: Let me make it clear, I want to allow cross-examination, but I don't want repetition.

Mr. Ungerman: This is not repetition.

Q. (By Mr. Ungerman) Your business flourished during the years? A. What do you mean, flourished?

Q. To where you were able to accumulate the sum of $40,000 in currency? A. Well, I think I was a good business man.

Q. Well, is that true or false? A. Yes.

910] Q. And your business was good up until the time that Jay Jones became police commissioner, wasn't it? A. No, there had been times before that it wasn't good.

Q. At any rate, during the regime of Jay Jones as police commissioner in the City of Tulsa, you were flat broke in the fall of 1956, weren't you? A. I was flat broke?

Q. Yes, sir, as you so testified yesterday. A. I did not testify I was.

Q. Were you broke in '56 as you related yesterday? A. I didn't relate I was broke.

Q. Well, what was your financial condition in September and December of 1956? A. About the same as it is now.

Q. Was it good or bad? A. I would say fairly good.

Q. In other words then when you testified yesterday that you told Nolen Bulloch that you were broke, you were out of business, you didn't testify truthfully, is that right? A. Mr. --

Mr. Crawford: If the Court please, that's argumentative and we object to it.

The Court: He may answer the question.

911] A. Mr. Irwin, I don't think I testified that I told Nolen Bulloch that I was broke.

Q. (By Mr. Ungerman) Well, what did you tell Nolen? A. I told him I was out of business.

Q. Weren't doing any business? A. That's right.

Q. So your business wasn't flourishing then in the fall of '56, was it? A. That's right.

Q. And that was during the regime of Jay Jones as police commissioner.

Mr. Ungerman: That's all.

Mr. Rucker: Your Honor, I am going to try very hard not to be repetitious; if I do, I may lead up to a few things.

Cross-examination by Mr. Rucker

Q. Mr. Edwards, you took an oath here to tell the truth. A. Yes, sir.

Mr. Crawford: We object to that type of questioning, Your Honor.

The Court: Sustained, -- sustained.

Q. (By Mr. Rucker) Mr. Edwards, are you an atheist -- you don't believe in God do you? A. What is the definition of an atheist?

Q. A man who doesn't believe in God; you don't believe in
912] God, do you? A. I don't think that is true.

Q. You mean you do not believe in religion, do you? A. I believe in a Creator.

Q. Haven't you time and time again said to people that you are an atheist, and do not believe in God? A. I don't think so.

Q. Mr. Edwards, you likewise took an oath to tell the truth when you testified before Judge Taylor, didn't you? A. Yes, sir.

Q. Which time did you tell the truth, then or yesterday?

The Court: That's repetition.

Mr. Crawford: If the Court please, --

The Court: He has been cross-examined about that.

Mr. Rucker: All right.

The Court: He has been cross-examined twice on that subject, so if you have a new subject to cross-examine upon, you may, but otherwise, not.

Q. (By Mr. Rucker) All right, let me just ask you a little bit about: You went into the whisky business in 1944, I believe you said? A. I don't believe I said that; I am trying to think when I did go into the whisky business; I think I worked for Martin earlier than that; I think I did, but I --

Q. What year were you in the whisky business either with somebody else or by yourself; was it as early as '42 or
913] '43? A. I don't think so.

Q. Well, when was it? A. I think that -- you mean the first time I had any connection with the whisky business?

Q. Selling it, in any way, yes. A. Probably in '42 or 43.

Q. Where were you in the whisky business in '42 and '43? A. Where?

Q. Yes. A. I was delivering on my spare time, for Martin.

Q. You were here in Tulsa? A. Yes, sir.

Q. How old a man are you today? A. Forty-three.

Q. How old were you then in 1942, -- roughly fifteen years younger. A. Well, that would be twenty-eight, wouldn't it?

Q. Yes, sir. Were you married at that time? A. Yes, sir.

Q. Did you have any children? A. Had two.

Q. Were you ever in the Army? A. No, sir.

Q. Navy? A. No, sir.

914] Q. Marine Corps? A. No, sir.

Q. In the whisky business.

Mr. Crawford: Your Honor, that has no bearing on the testimony of this witness.

The Court: I will sustain the objection.

Q. (By Mr. Rucker) Mr. Edwards, with reference to your financial condition, I'm not going into about your defrauding of the Government on income tax, except for the figures; isn't it true that your business was flourishing to the point that in 1950 the Government alleged that your income was $22,000 but you only reported $7,000, isn't that true?

The Court: That wouldn't be material. It gets into collateral issues. The Court would have to take judicial notice of the fact that the Government gives itself the benefit of every doubt in alleging the amount due.

Mr. Rucker: Well, I think he gave himself the benefit of the doubt, if Your Honor please.

The Court: Well, most people do.

Mr. Rucker: Yes.

The Court: Most people do and properly so.

Q. (By Mr. Rucker) Mr. Edwards, now do I understand -- and this is repetition, if your Honor please, but leading up to a certain matter -- that it was in June of '55 that you say you

915] gave that case of whisky to Robert Scott. A. Yes, sir.
Q. And that is for helping you out on when a car was -- A. It -- I won't definitely say it was in June; it was in --
Q. In the summer? A. It might have been in May.
Q. All right. But that was where you had a car registered in the name of a Mrs. Collins? A. I don't remember just whose name it was a fictitious name.
Q. Yes, sir. Mr. Edwards, I want to ask you if it is not a fact --

Mr. Rucker: Mark this as an exhibit.

Q. (By Mr. Rucker) Mr. Edwards, I want to ask you if it is not a fact that in February of 1955 the Tribune, with Nolen Bulloch, wrote an article in which it said,

"Bill Edwards, the southside society bootlegging member of the Edwards clan, today admitted in Court he registered one of his liquor-carrying cars in a phoney name. Edwards' admission came as he tried to beat his latest arrest on a motion to suppress on the grounds that the warrant did not --

Mr. Crawford: We object to the form of the question - did the Tribune write an article?

Q. (By Mr. Rucker) And did you read it?

916] Mr. Crawford: I think the thing tried by this attorney is to introduce into evidence articles written in the Tribune.

The Court: I believe it would be admissible, so I will overrule the objection.

Q. (By Mr. Rucker) -- Edwards' admission came as he tried to beat his latest arrest on a motion to suppress on grounds the warrant did not permit search of the car on Edwards' property. He is charged with second offense liquor possession. Please Judge, Lloyd H. McGuire, directed rival attorneys to file briefs by Monday afternoon. Edwards testified under questioning of Robert Scott, assistant county attorney, that the car was registered in the name of Mrs. R.F. Collins, of Barber, Oklahoma, but he confessed there was no such person.

Didn't this incident happen months and you were tried on it months before any alleged gift of whisky? A. That was in Common Pleas Court and I was bound over to District --

Q. And Mr. Scott questioned you on it? A. Definitely; I don't deny that -- I didn't deny that, but he didn't file a felony charge for the car having been registered in a fictitious name.

Q. What was he doing in this Court; trying every way he could to convict you, wasn't he? .A. I didn't deny that, but he didn't file the charge on the car.

917] Mr. Rucker: We offer into evidence, if Your Honor please, Defendants' Exhibit 1.

The Court: It is admitted.

Mr. Hall: If your Honor please, on behalf of Oliver Stephens I would like to cross-examine about two or three matters that have not been covered in the cross-examination.

The Court: You may do so.

Cross-examination by Mr. Hall

Q. Mr. Edwards, yesterday you testified about two conversations, I think you say you had with Oliver Stephens? A. Yes, sir.

Q. I will ask you if the topic of that conversation was merely relating to raids, that he should make or should not make? A. No, not that alone.

Q. Now you also testified that he had been appointed on a trial basis, is that correct? A. Yes, sir.

Q. Do you know when he was appointed? A. Not exactly.

Q. When did this alleged conspiracy get in operation? A. The first of June.

Q. Do you know that he was appointed as a member of the raiding squad on May 15th? A. I know that it figures that he would be; Jay Jones took office May 8th, and we had this thing in mind.

918] Q. So that he was actually appointed to the raiding squad before the formation of this alleged conspiracy? A. No, no, not before the formation; before it went into effect -- the formation started long before that.

Q. Now, yesterday you said that you made certain pick-ups out there of pay-offs and that the money came from at least four persons whom you named; among them was J.D. Pitts and Alfonso Williams. You gave that testimony yesterday, did you not? A. Yes, sir.

Q. I will ask you if you do not know that during the time Oliver Stephens served on the raiding squad, to be specific, on the 18th day of May, just three days after he was appointed, he did raid J.D. Pitts, -- do you know that? A. I don't know whether he did or not.

Q. And do you know that just a few days later on the 28th day of May he also again raided J.D. Pitts; did you know that? A. No, sir.

Q. And I will ask you if you did not know that on the 6th day of June, 1956, he raided Alfonso Williams and recovered one hundred fifty-one fifths, one hundred eleven pints, and one thousand three hundred sixty-six half pints from Alfonso Williams? A. Yes, sir, I knew that, but Alfonso hadn't paid for the month of June.

919] Q. Mr. Edwards, you were not present when any of these alleged pay-offs were actually made were you? A. You mean the pick-up money?

Q. Yes, sir, over in our section? A. No, sir.

Q. The information you got came to you from someone else, is that right? A. The money came from someone else.

Q. Well, you didn't see the money paid over, did you? A. I didn't see the money paid to Theopolis Scoggins.

Q. And how did you know then that it was actually paid by the persons whom he named? A. I can't say that I knew it. Theopolis Scoggins handed me the money and a list of boys that had paid.

Q. Well, where is that list? A. Oh, I destroyed the list after --

Q. And all you know about J.D. Pitts, and Alfonso Williams, and Roy Johnson and Frank Fletcher having paid any money to anybody is from that -- is from that memorandum which you say Scoggins gave you? A. No, I know that they were getting protection because for some reason Frank Fletcher constantly was raided, and they picked up two pistols; they confiscated two pistols and Jack Gott gave me the pistols back that night or the next day and I gave them to Frank Fletcher.

920] Q. Mr. Edwards, you say you made complaint of the fact that this boy wasn't doing anything, to use your expression, you say he wouldn't do anything, he wouldn't

arrest anybody. A. Yes, sir.

Q. Do you know that during the five weeks he served on that raiding squad he made fifty-five or sixty raids, an average of two a day -- did you know that? A. That isn't being very active.

Q. That is not being very active? A. Not two a day.

Mr. Hall: That's all.

Mr. Patten: If the Court please, I have a few questions.

Cross-examination by Mr. Patten

Q. Mr. Edwards, you said -- you didn't say, how long had you known Mr. Scoggins up to June 1956? A. Not very long.

Q. You never knew him before the time of June, 1956, I mean, had dealings with him of any kind? A. No, sir.

Q. Do you know what type of business Mr. Scoggins is in, please? A. Yes, sir.

Q. What kind of business is he in? A. He is in the
921] grocery business.

Q. He runs a grocery store, is that correct? A. True, sir.

Q. Where is that grocery store located? A. Well, it's on Peoria -- North Peoria, oh, about the 1100 block, that is from -- that is just guessing.

Q. 1100 block North Peoria? A. Yes, sir.

Q. All right now, you said you went to his place and picked up some money, is that correct? A. Yes, sir.

Q. And on what dates was that? A. Well, I -- I don't know -- I went there several times but the dates I don't know.

Q. You do not know. Well, was it in June of '56?
A. Well, I know the months, yes, sir.

Q. All right, what month? A. June and July, first part of --

Q. June and July '56? .. Yes, sir, last part of June and first part of July.

Q. Well, you testified this morning you picked up money from Johnson, Oakley, Curlee, Bly, Griff, and Moore in June, but you didn't mention Mr. Scoggins at that time, Bill; did you just forget? A. I sure did.

922] Q. You just forgot? A. Not purposely.
Q. How much money did Mr. Scoggins give you then in June? A. It varied.
Q. It varied? A. Yes, sir.
Q. How many times have you been out to his place in June and July, the combination of both months? A. I picked up -- I went to his place, sometimes when I didn't pick up any money, just to talk the deal over, but I picked up money from him twice in June and twice in July.
Q. All right, how much money did he give you the twice you are talking about in June? A. I don't remember.
Q. You do not remember. A. No, sir.
Q. Could it have been $50, $500, or $250? A. Well, the first -- the first pick-up I made from him were for the first two weeks in June; to the best I can remember it was -- it was pretty good, something like maybe three or four hundred dollars.
Q. All right now, in July how much money did he give you? A. Well, the collection fell away off in July.
Q. Well, how much money did you get, do you remember?
923] A. Well, I just don't remember. I remember the second pick-up in June he told me that -- it was in an envelope and he told me he had $200 in there, and I didn't count it, took the envelope and when I relayed the money to Jack Gott, I was $20 short; I only had $180.
Q. All right, that was in July? A. No, that was the second pick-up in -- that was the last of June or the first part of July.
Q. All right. Now this paper, he had his name on -- what kind of a paper, like this here, was it -- what kind of a paper? A. It was just tablet paper.
Q. Just tablet paper? A. Yes, sir, ordinary writing paper.
Q. Was it pen or ink? A. Pencil.
Q. Pencil -- and you say you destroyed that paper? A. I did.
Q. All right, did you ever show Mr. Gott the names? A. Oh, sure.
Q. You showed Mr. Gott them? A. Yes.

Mr. Patten: That's all.

Cross-examination by Mr. Hickman

Q. Mr. Edwards, what were you to receive in exchange for
924] this pay-off? A. One-third of ten per cent.

Q. No, I don't mean that; I mean what were the liquor dealers to receive? A. Oh, they were to receive absolute police protection.

Q. In other words, protection against arrests, search and seizure, by the raiding squad? A. Yes, sir, and adverse publicity.

Q. In other words, the understanding was that the liquor dealers in Tulsa would be -- who were paying off through you would be operating with an assurance that they wouldn't be knocked off by the raiding squads of the police department? A. Yes, sir.

Q. That was the understanding was it? A. Yes, sir.

Q. And that those liquor dealers who were not paying off would be raided and searched and arrested with a view of coercing them into joining into this arrangement, -- am I stating it right? A. That's true, that's right.

Q. And your complaints about not raiding were because you conceived that certain liquor dealers were operating without being raided and without paying off? A. They weren't my complaints; they were the complaints of the bootleggers that were paying off.

Q. Well, was that relayed to you by them? A. Yes,
925] sir.

Q. And that was the complaint then that you registered to someone in the raiding squad? A. Yes, sir.

Q. Where was your protection from the search and arrests and seizure by the sheriff's office of Tulsa County, where was your protection coming there? A. Do you mean -- well, my -- deal?

Q. Was only with the City? A. Was the City deal?

Q. You took your chances on the County of being either arrested or not arrested, by the County -- I mean the county officials and law enforcement officers of the county? A. For a while.

Q. For how long? A. Up until July of '56.

Q. Well, during this time that you were in it you say? A. I was in -- I was in -- let me back up. Did I say July?

Q. You did; maybe you made a mistake? A. Well, that's possible.

Q. To reform it, instead of asking you to correct yourself, I will restate the question this way: You weren't -- you weren't paying for any protection from the law enforcement officers of Tulsa County as distinguished from the police
926] department? A. Yes, sir, I was paying.
Q. To whom? A. Tex Rucker.
Q. And who was he to pay? A. I know who he said he paid.

Mr. Page: If Your Honor please, I am going to object to that.

Mr. Crawford: If the Court please, let me enter into this -- it is proper --

Q. (By Mr. Hickman) No, I want to know how much were you paying Tex Rucker? A. I was paying him $100 a month?
Q. And how much was he paying you? A. He was paying me $200 a month.
Q. Well, would he thereby pay you $100 which would take care of the other $100? A. He gave me $200 a month.
Q. And you gave him -- A. I gave him back $100 a month. He gave me $200 for city protection; I gave him $100 for county protection.
Q. So that you were thereby -- you were conceiving or thereby securing a degree of safety and protection against raids and arrests and seizures by the city and the county? A. I started paying Tex after I got arrested by the county.
927]
Mr. Gotcher: If Your Honor please, may I approach the bench?

The Court: Yes, sir.

(Thereupon Mr. Gotcher and Mr. Crawford conferred with the Court at the bench.)

Q. (By Mr. Hickman) Were you paying any protection to the Oklahoma Highway Patrol against seizure of automobiles on the highways? A. No, sir.
Q. No other department of Government? A. No, sir.
Q. You took your chances with the Highway Patrol and with the Federal Officials? A. Yes, sir.
Q. The protection was that you were not to be raided by

the raiding squad of the police department? A. And the county sheriff's force.

Q. Now then my understanding of your testimony is that you knew two officers on the vice squad, that you wanted to work on the vice squad; didn't you yesterday mention someone named Richard Carter and a man named Bruner? A. I didn't know them until I came up here to this Federal Building.

Q. Didn't you mention them in your testimony yester-
928] day? A. Oh, yes, sir -- yes, sir.

Q. That they would be good men to put on the squad? A. I don't think I said they would be good men. In this general discussion that we had, trying to decide who we would put on the raiding squad, it was generally agreed by all of us it would be a pretty good idea to keep some of the old members on the raiding squad; at least for a while, and Carter and Bruner were mentioned as probably good men -- maybe not both of them, maybe one of them for a short while. I didn't know Carter or Bruner at the time.

Q. Well, you know they were immediately put off the raiding squad when Mr. Jones assumed office, don't you? A. Yes, sir.

Q. When did you first meet Jay Jones? A. Well, I have seen Jay and known who he was ever since he played football at TU.

Q. You were a football fan, weren't you, Mr. Edwards? A. Yes, sir.

Q. You went to most -- A. Well, wait a minute now, I haven't answered your question. I don't know when I first met him; and talked with him, but I have known him -- known of him and known who he is for a long time.

Q. You have never had any intimate conversations with his
929] until 1956, is that your testimony? A. No, he arrested me one time.

Q. Well, was there anything intimate about that? A. No, I wouldn't call it intimate.

Q. Well then, you can answer my question that you never had any intimate conversations with him about matters until 1956? A. That's right.

Q. You say that on March 30, 1956, you met him in the Hirrlingers home at Turley? A. Yes, sir.

Q. Do you know whether he knew Charles Hirrlinger? A. Why sure he knew Charley Hirrlinger; Charley arranged the meeting.

Q. Oh, you did not arrange the meeting? A. No.

Q. When did you first hear of him, of the holding of the meeting or the plan? A. Charley called -- contacted Jay and then contacted me.

Q. Oh, he told you that he had contacted Jay? A. Yes, sir.

Q. All right, up to that time you had not contacted Jay Jones? A. No, that was -- I left that up to Charley, when I wanted to meet with Jay I notified Charley.

Q. You hadn't talked with Jay Jones for months had you?
930] A. No, sir.

Q. Would I be right in assuming that for at least six months before that you had had no occasion to talk to Jay Jones and did not talk to him? A. I don't believe I did.

Q. All right, was this meeting -- are you definite on this date, Mr. Edwards, March 30; that was four days before the general election. A. That's the reason I am so positive.

Q. For your information, Government's Exhibit No. 1 reveals that the primary election last year of the City of Tulsa was held on March 20, and the general election, -- that was after the nominating -- A. Uh huh.

Q. Of the City of Tulsa was held on April 3rd?
A. Yes, sir.

Q. Which no doubt was a Tuesday. Now, when with reference to the election on April 3rd did you first meet, within six months? A. I think -- I think it was March 30.

Q. March 30. A. That's the first -- as far as this fix thing was concerned.

Q. Well, as far as anything, had you talked to Jay Jones?
931] A. Well, I don't remember whether I did -- I don't think I did.

Q. All right and what time was this meeting scheduled for? A. It was scheduled I think for 9 o'clock.

Q. At night? A. At night; but Jay was late.

Q. You testified I believe -- I might be mistaken -- you testified yesterday that you collected some money from bootleggers in March, didn't you? A. Yes, sir, -- yes, sir.

Q. About the middle of March? A. Yes, sir.

Q. And you gave them credit for what they paid in March when you came around in June? A. Yes, sir.

Q. Wasn't that your testimony? A. When the deal started they received credit for the money that they had advanced me before the election.

Q. All right. Now was that money collected by you from these liquor dealers before this meeting that you allegedly had with Jay Jones on March 30? A. Yes, sir.

Q. What is your best judgment as to how long before? A. Oh, three or four weeks.

Q. It might have been a month then, if it was four
932] weeks; do you think it was about the first of March?

A. Around that time, yes, sir.

Q. Well, at that time of course Jay Jones had not even been nominated, had he? A. No.

Q. So when you collected this money early in March from these liquor dealers you had no idea of the use to which you were going to put it? A. Yes, I knew what I was going to do with it; I told them what I was going to do with it.

Q. That whoever got to be police commissioner, you were going to try to set up something? A. No, sir, if Jay -- the money was going to Jay Jones, and I had authority to make that statement, if Jay Jones was elected they would receive police protection.

Q. Well, had you talked to Jay Jones within six months before that? A. No, sir.

Q. You did not? A. No, sir.

Q. You had no word from Jay Jones that you were treading on safe ground did you? A. In person, no, sir.

Q. Had you contacted Jay Jones within six months before
933] March 30? A. I don't think so.

Q. All right, how much did you collect and from whom did you collect this money in March for the primary? A. I collected $900 from the Massey boys, Bob, Bill and Dave Massey, and I collected $200 from Lee Johnson. That's all I collected.

Q. $1100? A. $1100. And I put some money of my own in.

Q. All right, how much did you make the pot then? A. $2000.

Q. And what did you do with that money with reference to being preserved against loss or theft; where did you put it? A. Oh, I didn't keep it.

Q. Well, I want to know what you did with it? A. I gave -- I gave $1100 -- no, I gave -- I got -- I got $600 at first from the Massey boys; I got $600 and $100 from the Massey boys, and $100 from Lee Johnson, that is $700, I gave that to Charlie Hirrlinger?

Q. You gave it to Charlie Hirrlinger? A. Then I went

Q. Then you got some more? A. I went back to the Massey boys, I said I needed some more money; I got the money from Bill Massey.

Q. On behalf of himself and his two brothers? A. Yes, 934] sir, I got $300 more from Bill Massey and I got $100 more from Lee Johnson.

Q. That made $1100? A. That made $1100.

Q. Did you give that money to Hirrlinger? A. No, sir, that was part of the $700 that I gave Jay Johnson -- or Jay Jones.

Q. Now when you say, Jay was late getting there, when he got out there who had accompanied him, anybody? A. No body as far as I know; he came in by himself.

Q. Who was there? A. Charlie Hirrlinger and myself.

Q. Who else? A. Jay.

Q. No one but the three of you? A. This first meeting.

Q. That is the first meeting, now, you had had with Jay in months. A. That's right.

Q. Was Mrs. Hirrlinger there? A. I don't know; Charlie has an office off to the edge of his house; if she was there I don't know; she could have been.

Q. Did you go in the house or in the office? A. We were in his office; he has a private entrance to his office.

Q. And where is this house located? A. It is on the 935] north edge of Turley.

Q. Which side of the road? A. It is on the east side.

Q. What kind of a house is it? A. Oh, it is an ordinary -- I think it is about a six-room house -- moderately priced house.

Q. You say Jay Jones came out there? A. Yes, sir.

Q. Are you sure of that? A. Oh, I am definitely sure of it.

Q. Did you introduce him to Hirrlinger or did Hirrlinger introduce -- A. We didn't need any introductions; we knew each other.

Q. How did you know that Hirrlinger knew Jay Jones? A. How did I know?

Q. Yes. A. He told me.

Q. Jay Jones never told you did he? A. No.

Q. You assumed it though, is that right? A. Charlie

told me that he knew him -- Charlie told me he was talking to him.

Q. All right, what did you talk about? A. There at
936] the meeting?

Q. That's right. A. We talked about the campaign, how things were going, and of course --

Q. What did you say -- what did you say -- what was said? A. Well, Mr. Hickman, I couldn't -- I can't remember word for word what was said; I am telling you what we talked about.

Q. Can't you give me the substance of any conversation?

Mr. Crawford: If the Court please, I object; he asked the witness what he talked about and then never gave the witness an opportunity to answer the question, before he asked another; I think he should be given an opportunity to answer the questions as they are asked before another one has been put to him.

Mr. Hickman: I ask now for the substance of what was said.

The Court: All right tell him what was said.

A. We talked about the campaign.

Q. All right now, what was said about it? A. Well, naturally I asked him how he thought he was doing. He said he thought he could win it; he needed a little more money; he had some radio and television commitments that he had not paid off.

Q. Did he tell you how much? A. He didn't tell me how much -- how many bills he owed; when I gave him the
$700 I asked him, would that be enough. The election
937] was the following Tuesday and he said, I believe it will. And I said, well, don't -- don't -- let's not lose this election for lack of money; if you need any more why let us know. He said, I think this will be enough.

Q. Then did he leave? A. Soon after, yes.

Q. Now, what else did you discuss there with him at that time? A. Well, he told me what I could expect for my money; he told me that if he was elected I would be in charge of whisky in the City of Tulsa.

Q. That came voluntarily from him without any suggestion by you? A. Oh, definitely.

Q. In other words you did not tell him -- A. He said this, too, about the first thing he said when he came in and we passed the time of day, he said, -- he sat down and he said, Bill, I didn't make any money in my first administration. I said, I know you didn't, Jay, but you might as well; you got the blame for it; you were theoretically the head of the police department and there was definitely money made in your first administration. But he said, I'm going to -- I intend to make some money this time.

Q. All right, what else did he say -- do you remember
938] anything else? A. Well -- no, I don't think I do.

Q. You don't remember anything else. Do you remember who his opponent was -- did you discuss his opponent?
A. No, sir, I don't even -- I don't believe I knew or remember who the opponent was.

Q. I see. When did you next see Jay Jones following that?
A. Our next meeting was in June.

Q. In other words, you didn't see Jay Jones or talk to him from March 30 until sometime in June? A. No, sir, he didn't want to meet with anybody but Charlie Hirrlinger, if he could help it; he didn't think it was a good idea for us to congregate too often.

Q. Well, I don't care about volunteering that; I just want to know, if you met him? A. No, sir.

Q. You didn't see Jay Jones and talk to him then from the 30th of March until sometime in June, is that correct?
A. That's the 30th of June?

Q. 30th of March until sometime in June you said.
A. I don't believe I did.

Q. Then you were not present at this alleged meeting in April at Hirrlinger's house that you testified about?
A. I don't think I testified that I met at Hirrlinger's house in April.

Q. Well, did you only meet at Hirrlinger's house at one
939] time? A. No, we met in Hirrlinger's house in May.

Q. Not in April? A. That's right. I was --

Q. Then is it your testimony that you did not meet Jay Jones or talk with him from the 30th of March until sometime in May? A. Yes, sir.

Q. When was it in May according to your best judgment?
A. It was about ten days or two weeks after he was elected -- after he took office -- wait a minute -- wait a minute now -- yes, sir.

Q. You did not meet in April; it was in May?
A. That's right, after he took office.
Q. Are you sure of that? A. Yes, sir.
Q. My recollection is you testified yesterday that you met in April. A. I think it was in May, sometime in May.

Mr. Hickman: All right.

* * * * *

940] Mr. Ungerman: If Your Honor please, at this time the defendants would like to request of Your Honor to require the production of the witness, E.C. Red Carter, for further cross-examination immediately following the present witness on the stand.

The Court: Well, I don't produce witnesses --

Mr. Ungerman: We can't find anybody around the building --

The Court: Is Carter present today?

Mr. Crawford: No, Your Honor, he isn't; the man has been ill. The day before he testified, his doctor advised me --

Mr. Rucker: If Your Honor please, we object to that.

The Court: Objection is overruled.

Mr. Crawford: His doctor advised me he was running a temperature of 103 degrees and was passing some blood through his bowels; and he came in a day late after our subpoena, when he testified in here the other day and I excused him until further -- he is not excused as a witness in the case, but he is not retained here in the building because of his physical condition.

941] Mr. Ungerman: We are asking that he be called then; I don't remember of him being excused.

The Court: What is that?

Mr. Ungerman: I don't remember him being excused. So I would like to ask that he be called to appear.

The Court: He wasn't excused by the Court, but these witnesses have not been advised to remain constantly here in the building as far as I am concerned I only want them to be available to give other testimony of course when they are desired, I don't know just what might be the best way to proceed. Is it your information that he probably is not physically able to be here?

Mr. Crawford: The last information I had, Your Honor, is to that effect, yes, sir.

The Court: Suppose we have Mr. Smith make an inquiry, and have him here this afternoon if he is physically able to be present. Otherwise, to plan to have him Monday morning.

Mr. Crawford: Would you do that?

Mr. Smith: I will do that, yes, sir.

The Court: Now counsel for the defendants requested the Court, I would like to mention, counsel for the defendants requested the Court to make available to them, or permit them to have access to the testimony of Carter that was given to the grand jury in 1952, and my information from Mr. Lindsay, the reporter, was that the testimony had not been transcribed.
942] But I directed him to transcribe the testimony for defense counsel upon request, and defense counsel will be permitted to have access to Mr. Carter's testimony or the testimony of any other party who testified at that grand jury proceeding for impeachment purposes.

Mr. Ungerman: We appreciate that.

Mr. Crawford: May I ask at this time if, have the defense counsel requested the testimony of any other witnesses who appeared before that grand jury, of 1952?

Mr. Ungerman: For the benefit of the District Attorney I might state, we are making rather extensive investigation of

the testimony given by the witnesses and we will probably request certain additional testimony be transcribed in the course of this trial.

Mr. Crawford: Well, I have the testimony of Cecil Boone, before that grand jury; it won't be necessary to order that.

The Court: All right.
Any further questions?

Mr. Hickman: Just a few more questions.

Cross-examination by Mr. Hickman (continued)

Q. Mr Edwards, how long have you known Charles Hirrlinger? A. About fifteen years.
Q. What is his business? A. He is a farmer, rancher, 943] stock man.
Q. Has he been in the gambling business? A. He has been in the slot machine business.
Q. Slot machine business? A. Yes, sir.
Q. Do you know where his premises are, north of Turley? A. I know where his home is, and where one of his farms --
Q. Have you ever made use of his premises north of Turley as a plant for the storage of liquor that you brought in from Missouri? A. No, sir.
Q. Has he ever procured for you plants or locations up in that area? A. No, sir.
Q. Never has. A. No, sir.

Mr. Hickman: That's all.

The Cour: Any redirect?

Mr. Crawford: Yes, Your Honor.

Mr. Gotcher: If Your Honor please, before the redirect I would like to move the Court to strike any testimony concerning -- from this witness concerning any payment of any money to the -- Mr. Tex Rucker, as county protection, for the reason it is a collateral issue and is not -- does not tend to prove or

944] disprove any issue in this case. And I ask the -- I ask Your Honor to admonish the jury not to consider it.

The Court: I will sustain that motion, and the statement of the witness to that effect should not be considered by the jury as against the defendant Rucker.

Redirect Examination by Mr. Crawford

Q. Mr. Edwards, on cross-examination it was brought out that several articles were written by Nolen Bulloch about you. One had to do with reference to a story where you had hit a man in the back or in the rear; do you recall that particular article in general? A. Yes, sir.

Q. Were those facts true or untrue? A. They were untrue.

Q. Also a statement was made on cross-examination with regard to the amount of money that Nolen Bulloch had written as to the accurate amount you paid for your home? A. Yes, sir.

Q. Do you recall that article? A. Yes, sir.

Q. Do you recall how much money he said in the article you had paid for your home? A. He said I had paid $96,000 for it, $56,000 in cash.

Q. And how much did you actually pay for that home?

945] A. $40,000.

Q. And that money was paid in cash? A. Yes, sir.

Q. Now, Mr. Edwards, have you ever been associated with Cleo Epps in any business whatsoever? A. No, sir.

The Court: I wanted to inquire about the witness, I believe, Mr. Carroll.

Mr. Crawford: Yes, Your Honor.

The Court: Who desires to be excused from further attendance.

Mr. Crawford: Well, in that regard as I recall Government's Exhibit No. 7 has been offered for introduction into evidence, but never has been accepted or ruled upon, until -- pending the review of photostat copies by the defendants'

attorneys; I wonder if at this time that exhibit may be accepted into evidence.

Mr. Shortridge: I would like to interpose an objection, Your Honor.

The Court: On what ground?

Mr. Shortridge: Upon the ground that it is incompetent, immaterial irrelevant, tends to neither prove nor disprove anything in this case; it is not within the charge laid within the indictment; it would not support any allegation of Count 2 of the indictment, which is the failure to pay tax, again, because the witness who identified it said it was only a list of the Tulsa City liquor dealers, not a complete
946] list of the County liquor dealers -- everybody who had licenses for their places of business in the county, or a complete list of places other than in the Northern Judicial District of Oklahoma. I would like to point out to the Court that Count 2 in substance charges that the defendants did, in the Northern District of Oklahoma, and elsewhere, conspire, and so forth, and combine. And it was a part of a conspiracy that defendants would carry on the business of wholesale and retail liquor dealers and wilfully fail to pay the special tax, but there is no allegation as to where that business would be carried on.

The Court: Objection is overruled.

Mr. Shortridge: And proof that he didn't have --

The Court: I don't care to hear any further argument. Just make your objection.
Objection is overruled.

Mr. Gotcher: I just wanted to find out from the United States Attorney if the name Bernard H. Williams, and under the same list Bernard N Williams is one and the same person.

The Court: What list do you refer to?

Mr. Crawford: The list that is just being introduced into evidence.

The Court: You may answer if you know, Mr. Crawford.

947] Mr. Crawford: I do not know, Your Honor; the record speaks for itself.

Mr. Gotcher: Well, may I inquire, Your Honor, is the man who introduced these records in evidence here in attendance on the Court?

Mr. Crawford: Mr.Heinan, I don't believe was --

Mr. Malloy: I believe these Government's Exhibit 7 have already been admitted; you overruled my objection.

The Court: I think what Mr. Carroll was talking about was Government's Exhibit 8 which referred to the take off; I reserved ruling until we could -- I reserved ruling on this exhibit until I could have photo copies made and furnish them to defense counsel for examination.

Mr. Gotcher: I just want to know, because I want Mr. Heinan back on the stand now to identify this particular --

The Court: I think he was excused yesterday but if he is present we can call him as the next witness if you care to.

Mr. Malloy: Mr. Crawford, may I see you a minute?

Q. (By Mr. Crawford) Mr. Edwards, I hand you what has been marked for identification as Government's Exhibit No. 9, which is the transcript of testimony given by you in a court of inquiry conducted in Judge Taylor's court in the old courthouse, referred to by Mr. Malloy in his cross-examination. Now, Mr. Edwards, have you ever seen a transcript of that testimony prior to today? A. No, sir.

948] Q. Did you not during the noon hour in my office read the testimony that you gave there? A. Yes, sir.

Q. Were there any statements in there that were not true? A. No, sir.

Q. Mr. Malloy did not question you about all of the statements that you made, is that correct, from your reading of this transcript? A. That's right.

Q. Now, Mr. Edwards, were you ever asked at that court of inquiry for the names of the persons as given by them to you that you were buying whisky from? A. Yes, sir.

Q. You were asked the question, who are some of them you buy from; your answer, well, I don't know, they tell me their names, whether it is their true names or not I don't know. And then you were asked the question, You don't know anybody that you buy whisky from, and you answered, I know them by the names that they give me. Were you ever asked what those names were? A. No, sir.

Q. Now, Mr. Edwards, had you ever met me or talked with me by telephone prior to the time that we conferred in the Adams Hotel? A. No, sir.

949] Q. And you recall that meeting was on the third floor of the hotel, is that correct? A. Yes, sir.

Q. At whose request did you attend that meeting? A. Sid Steen.

Q. And that meeting was held just a few days before January 8 when the grand jury convened, is that correct? A. Yes, sir.

Q. Do you remember the day of the week that that meeting was held? A. That was on Saturday.

Q. And it was on Saturday afternoon, was it not? A. Yes, sir.

Q. Subsequent to that meeting, Mr. Edwards, I want to ask you if you do not remember another meeting in the Adams Hotel where the same parties were present? A. Yes, sir.

Q. That meeting was after the grand jury had been in session for several days, is that correct? A. Yes, sir.

Q. And at that meeting Mr. Morley of my office, and myself, and Mr. Steen were present initially, is that correct? A. Yes, sir.

Q. And did anybody leave immediately thereafter? A. Sid

950] Steen left.

Q. Then you conferred at that time with Mr. Morley and myself, is that correct? A. That's right.

Q. And subsequent to that meeting you appeared before the United States grand jury and testified as a witness, is that correct? A. Yes, sir.

Q. Now, you testified Mr. Edwards on cross-examination that Alfonso Williams had not paid during June; did he pay during July? A. Yes, sir.

Q. You also testified that he paid $100; was that at one time or in four equal twenty-five dollar payments?
A. That was at one time; that was to cover the entire month of July.
Q. Now when you delivered this case of whisky to Bob Scott at the suggestion of Nolen Bulloch --

Mr. Rucker: Objected to, an attempted recapitulation if Your Honor please, as well as leading and suggestive.

The Court: Sustained -- sustained. I sustain the objection for this reason: That you ask the question without reviewing the testimony heretofore given.

Q. (By Mr. Crawford) Where did you leave the case of
951] whisky that you delivered to Bob Scott?

Mr. Rucker: Objected to as repetition, if Your Honor please.

The Court: I believe it is repetition; he testified he left it in the garage.

Q. (By Mr. Crawford) Did you see Bob Scott at that time?
A. No, sir.
Q. You normally conduct your deliveries of whisky early in the morning, do you not? A. Yes, sir.

Mr. Crawford: May I approach the bench, Your Honor, in company with one of counsel.

(Thereupon Mr. Crawford and Mr. Rucker and Mr. Malloy conferred with the Court at the bench.)

Q. (By Mr. Crawford) Mr. Edwards, you did as a matter of fact have taken from your home some period of time ago $10,000 in cash, is that correct? A. Yes, sir.
Q. Where did you normally keep that $10,000?
A. I kept it in a strong box in the closet of my master bedroom.
Q. And do you recall the approximate month that the money disappeared so to speak? A. Yes, sir, it was in December.

Q. Of what year? A. '54.
952] Q. Now who besides yourself knew the location of that money in your home? A. No one knew the exact location.
Q. Who besides yourself knew that you had that money in cash? A. Jack Edwards.
Q. Do you recall the time of day that you were absent from your home when that money was taken? A. Yes, sir.
Q. What time of day was that? A. We left home in the afternoon -- it was Sunday. We left home -- we left home early; it may have been around noon, because we left just to drive around, and we went to Martin's house and they were having a late dinner, I mean the noon day meal, but it was a late noon day meal and he asked us to stay and have dinner with them.
Q. You say by "we"; is that yourself and your wife? A. My wife and my boy Pat.
Q. All right, did you stay for dinner? A. Yes, sir.
Q. Did you leave in company with Jack thereafter? A. Yes, sir.
Q. And how long were you gone? A. Well, we were gone -- maybe two hours.
Q. Then did you return with Jack to your home? A. To
953] Martin's home.
Q. To Martin's home. Do you know whether or not Martin left during the time that you were gone? A. Yes, sir.
Q. And how long was he gone while you were gone? A. About an hour or an hour and fifteen minutes.
Q. And did he leave by himself or with someone? A. By himself.

Mr. Ungerman: If the Court please, we object to that, this being incompetent, irrelevant and immaterial, nothing to do with the case on trial.

The Court: Well, it wouldn't have had if he had not been interrogated at some length about it on cross-examination. Of course that opens it up for some explanation; I don't intend to let it go too far. We have enough problems in this case without getting off into others.

Mr. Crawford: I have no further questions.

The Court: I think some of this is warranted by virtue of cross-examination.

Mr. Crawford: I have no additional questions.

Cross-examination by Mr. Ungerman

Q. Mr. Edwards, when I asked you how many conferences you had had with reference to this story that you had been telling, you didn't relate the second conversation that you had had at the Adams Hotel, did you? A. That's right.

Q. Why didn't you? A. I had forgotten about it.

954] Q. You couldn't remember what had transpired then within the last four months time, is that correct? A. I didn't remember that.

Q. I see. Both of those conferences were set up by Sid Steen of the Tulsa World, is that right? A. What do you mean by "set up"?

Q. Arrangements made therefor. A. Sid made the arrangements for the room.

Q. And for the conference? A. I don't know whether he did or not.

Q. Did you call Mr. Crawford and make the arrangements for the conference? A. No, sir.

Q. Did you call Mr. Morley and make the arrangements for the conference? A. No, sir.

Mr. Ungerman: That's all.

Redirect Examination by Mr. Crawford

Q. Did you call Mr. Steen and make the arrangements for the conference? A. No, sir.

955] Cross-examination by Mr. Ungerman

Q. How did Mr. Steen know that you wanted to talk then?

The Court: You are talking about the first occasion or the second?

Mr. Ungerman: The first and second both.

The Court: Let's take them one at a time.

Mr. Ungerman: Talk about the first one then.

A. I had talked to Steen earlier, before, that you haven't even questioned me about, several weeks before.

Q. (By Mr. Ungerman) And when was that? A. Several weeks before the first conference at the Adams Hotel.

Q. Where did that conference with Mr. Steen take place? A. At my home.

Q. At your home; did you call him out to your home? A. Yes, sir.

Q. I see. Now then directing your attention now to the two conferences it now develops you had, at the Adams Hotel, you say Mr. Steen made the arrangement the first time for the conference to be held? A. Steen made the arrangements for the room. That's all I know.

Q. Did Mr. Steen make arrangements for you to go to the
956] room? A. He told me.

Q. He told you what? A. What room to go to.

Q. All right, did you go with him? A. No, sir.

Q. Meet him there? A. Met him at the room.

Q. Had you made any arrangements with Mr. Hayden, the District Attorney, or Mr. Morley, the assistant, to meet you there? A. No, sir.

Q. Did you find out how they happened to be there when you got there? A. Yes, sir.

Q. How did they happen to be there? A. Through Sid Steen.

Q. So that Mr. Steen made the arrangement for the meeting, is that right? A. I don't know whether he did or not.

Q. I see. At any rate, they were there? A. They were there.

Q. Did the meeting, the second one, transpire the same way as the first one? A. The -- Sid arranged for the room.

Q. Did you call Mr. Morley or -- A. No, sir.
957] Q. Did you call Mr. Crawford? A. No, sir.

Q. They were there when you got there? A. Yes, sir.

Mr. Ungerman: That's all.

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Redirect Examination by Mr. Crawford

Q. Now prior to that meeting, Mr. Edwards, you stated on cross-examination that you had talked to many people about this conspiracy you have testified to. A. Yes, sir.

Q. You testified I believe on cross-examination that you talked to some law enforcement officers, is that right? A. Yes, sir.

Q. Did you talk with anybody from the State Crime Bureau? A. Yes, sir.

Q. Who was that? A. Fred Graves.

Q. And when was that? A. Well, it was shortly before -- I would say it was two or three weeks before my first conference with you.

Q. Did you talk with anybody from the County Sheriff's Office? A. Yes, sir.

Q. And who did you talk with there? A. Glen Brown.

958] Q. And who was present at that conversation? A. Bill Curlee.

Q. And where did that conversation take place? A. 31st and Yale.

Q. Do you know when that conversation took place, was it in the fall of 1956? A. Yes, sir.

Q. Do you recall whether it was in the month of September, October, or November? A. I believe October or November.

Q. And what did Mr. Brown do as a result of that conference?

Mr. Ungerman: That's objected to as incompetent, irrelevant and immaterial.

The Court: Sustained.

Mr. Crawford: If the Court please, I would like to approach the bench on that.

The Court: All right.

(Thereupon Mr. Crawford, Mr. Ungerman and Mr. Rucker conferred with the Court at the bench.)

The Court: I might explain the reason for my ruling;

it seems obvious to me that the defendant wouldn't know -- I mean the witness wouldn't know what Glen Brown did of
959] his own knowledge; it would necessarily call for hearsay testimony.

Q. (By Mr. Crawford) Well, do you know whether or not Mr. Brown did --

The Court: Anything he may testify that he knows of his own knowledge --

Q. (By Mr. Crawford) Do you know of your own knowledge whether or not Mr. Brown did or did not take some action?

Mr. Ungerman: We object to that as incompetent, irrelevant and immaterial, purely hearsay; it would have to be on hearsay testimony.

The Court: Overruled.

A. Yes, sir.
Q. Did he or did he not take some action? A. Yes, sir.

Mr. Ungerman: We object to that.

The Court: Wait just a minute.
Now, first, how do you know of your own knowledge?

A. He told me what he was going to do.

Mr. Ungerman: That is purely hearsay.

The Court: That would be hearsay.

Q. (By Mr. Crawford) Did you talk, Mr. Edwards, with any city officials about this conspiracy? A. Yes, sir.
Q. Who did you talk with on the City? A. Darven
960] Brown, and two of his assistants.
Q. Who was Darven Brown? Who is Darven Brown?
A. He is a city attorney.
Q. Where did that conversation take place? A. In John Ward's office in the Pythian Building.

Q. Do you recall when that conversation took place? A. Well, it was prior to the meeting I had with you -- all these other meetings with officials was prior to the meeting I had with you. But --

Q. Well, was it in the fall of 1956? A. Yes, sir, it was in the fall.

Mr. Crawford: That's all, Your Honor.

Cross-examination by Mr. Ungerman

Q. Can you be more specific as to the dates that you had the conference in Mr. Frazier's office? A. I didn't say --

Q. John Ward and Frazier are partners, aren't they -- well, in Mr. Ward's office.

The Court: He mentioned Mr. Ward's office.

Q. (By Mr. Ungerman) All right, we will say, Mr. Ward's office. A. It was in the fall -- late fall, that is about as close as I can get, October or November.

Q. And what about the conference you say you had in the 961] City Attorney's Office? A. I didn't say I had a conference in the --

Q. Did you have a conference with Darven Brown? A. Yes.

Q. Isn't he in the City Attorney's Office? A. Yes.

Q. All right, where was that conference? A. In John Ward's office.

Q. In John Ward's office, that is the only place you met with the City Attorney? A. Yes, sir.

Q. But you can't give us the date that you had that meeting? A. No, sir.

Mr. Ungerman: That's all -- that's all.

Mr. Crawford: I have no further questions, Your Honor.

The Court: All right.

Mr. Crawford: If the Court please, Mr. Heinan is here, if the defendants would like to have him take the stand.

962] CHARLES J. HEINAN, recalled as a witness on behalf of the Government, testified:

Cross-examination by Mr. Gotcher

Q. Just one -- just one question, Mr. Heinan: You have heretofore been on the witness stand on behalf of the Government? A. Yes, sir.

Q. And you are in charge of the records of the Internal Revenue Office at Oklahoma City? A. Yes, sir.

Q. And you brought with you what is known as Government's Exhibit No. 7, which is a list of the retail liquor dealers and records of wholesale liquor dealers? A. Yes, sir.

Q. Just one item here I want to ask -- inquire about, Bernard H. Williams who shows he has a liquor stamp ending June 30, 1955, and then in the same list you list him as Bernard N. Williams; is that one and the same person to your personal knowledge? A. I am assuming it is because for the fiscal year ending June 30, 1955, the application on form 11 was written with lead pencil and the H and the N are similar. In the next two fiscal years he typed his application and we picked up the initial "N". But Bernard H. Williams and Bernard N. Williams are shown at the same address, 2737 East 4th Street in Tulsa.

963] Q. You assume that that is one and the same person?

A. Yes, sir.

Mr. Gotcher: That's all.

The Court: May this witness be excused from further attendance in the case?

Mr. Gotcher: Yes, sir, as far as --

Mr. Crawford: We have no objection, Your Honor.

The Court: You don't have to leave, Mr. Heinan, but you may be excused.

964] SID STEEN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. Sid Steen.

Q. What position do you occupy at this time, Mr. Steen? A. Managing Editor of the Tulsa World.

Q. And how long have you served in that capacity? A. Over four years.

Q. Do you know John Bill Edwards? A. I do.

Q. How long have you known him? A. Oh, twenty or twenty-five years I guess.

Q. Have you ever had occasion to associate with him in any Golden Glove Tournaments? A. I did for a number of years, yes.

Q. Is that primarily the way you made his acquaintance? A. I think I knew him before that but not as well as I did.

Q. Now, Mr. Steen, do you recall a meeting in the Adams Hotel just prior to the first of January, 1957, at which time you attended, John Bill Edwards attended, I attended and John Morley attended? A. I do.

Q. Did John Bill Edwards request that that meeting be
965] set up? A. No, sir.

Q. Did you request that that meeting be set up? A. No, sir.

Q. Did I request that that meeting be set up? A. You did.

Q. And subsequent to that there was a second meeting was there not? A. That's right.

Q. In the same room, the same day of the week, but on a different date, is that correct? A. That's right.

Q. That second meeting took place after the United States Grand Jury had convened on January 8, 1957, is that correct? A. That's right.

Mr. Ungerman: If counsel wants to make a complete statement of the facts I think it would save a lot of time, if he wants to go ahead and make it; he is just leading and suggesting the answer; we object to the form of the question.

The Court: Objection overruled.

Q. (By Mr. Crawford) The answer to my question is "yes", is that correct? A. That's right.
Q. How long did you remain in attendance at that meeting? A. The second meeting?
Q. Yes. Q. I would say not more than ten minutes,
966] maybe not that long.

Mr. Crawford: That's all.

The Court: Cross-examine.

Cross-examination by Mr. Ungerman

Q. Mr. Steen, in regard to the first meeting at the Adams, who made the arrangement for the room? A. I did.
Q. And did you remain in attendance during the entire period of the conference that took place? A. I did.
Q. And how long was that? A. It was two hours and ten minutes.
Q. And then the second meeting, how long was that conference? A. I don't know how long that meeting lasted because I wasn't there; I mean I went in at the start and I left.
Q. Had John Bill Edwards talked to you about this story that he gave at that time, prior to the time of the first meeting? A. Yes, he had.
Q. How long before that? A. Oh, I couldn't say
967] exactly; it was probably six or seven weeks, maybe five -- along there.
Q. And isn't it a fact that after you learned of the story that he gave you that you contacted the District Attorney's office regarding the matter? A. It is not.
Q. You never did contact -- A. I never did.
Q. Never contacted Mr. Crawford about it? Q. Not until Mr. Crawford called me and asked me to come to see him.

Mr. Ungerman: That's all.

Mr. Rucker: Just a question -- Mr. Steen, a few questions, please, sir.

Cross-examination by Mr. Rucker

Q. How long have you been managing editor of the World?

A. A little over four years.

Q. The Tulsa World and the Tulsa Tribune are two separate competing newspapers, aren't they? A. That's right.

Q. For the four years you have been city -- did you say city -- A. Managing Editor.

Q. Managing Editor -- you have then a city editor?
968] A. That's right.

Q. How many reporters do you have here in Tulsa County? A. Roughly fifteen.

Q. Fifteen; you have one assigned to the Police Court? A. Yes, sir.

Q. Do you have one assigned to the City Hall? A. That's right.

Q. One assigned to the Federal Building? A. Yes, sir.

Q. How many assigned to the courthouse? A. One.

Mr. Crawford: If the Court please, I recognize this -- in my opinion is improper cross-examination but I don't care to object to it, if I may redirect on the same subject matter.

The Court: You may; it is improper cross but it is material evidence; and it is all right to proceed in this way.

Q. (By Mr. Rucker) Mr. Steen, does Nolen Bulloch have anything to do with stories going in or not going in the Tulsa World? A. No, he doesn't.

Mr. Rucker: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Steen, you are familiar with the policies of the Tulsa World newspaper, are you not? A. I should be, yes.

Q. Well, aren't you as managing editor -- is the Tulsa World a crusading newspaper?
969]

Mr. Malloy: Object to that.

Mr. Rucker: Just let him go, I would like to find out.

The Witness: Shall I answer?

Q. (By Mr. Crawford) Yes, you may answer. A. No, it

is not.

Q. Do you have any one assigned as to crime -- assigned the position as a crime reporter? A. No, nobody other than the police reporter.

Q. And he covers the police station, is that right? A. That's right.

Q. Do you know whether or not in the newspaper field the Tulsa Tribune is considered to be a crusading newspaper? A. I would say, yes.

Q. My question was, do you know -- the answer is yes. I will ask you now is it or is it not considered to be throughout the profession a crusading newspaper? A. I would say it was, yes.

Mr. Crawford: Thank you.

970] Cross-examination by Mr. Rucker

Q. In other words, the Tulsa Tribune is the newspaper that has been fighting crime and vice, and you folks are not, is that what you say? A. I didn't say that, no, sir.

Q. Well, isn't that what "crusading" means? A. No, not necessarily.

Q. What do you mean by crusading? A. Carrying on campaigns.

Q. Against what? A. A number of different things.

Q. All right, how about crime and vice, isn't that one of the things? A. Oh, it could be one, yes.

Q. Well, isn't it about time you helped have a crusade against crime and vice -- shouldn't you be a crusader against crime and vice?

The Court: Wait a minute -- give the witness time to answer.

Mr. Rucker: Well, I will withdraw --

The Court: Had you completed your answer, Mr. Steen?

A. Yes, sir.

The Court: Had you completed your answer?

A. Yes, as far as I am concerned.

Mr. Crawford: I don't think it is necessary for me
971] to continue, Your Honor -- I would like to --

Mr. Rucker: Well, --

Mr. Crawford: That's all, Mr. Steen; thank you very much.

* * * * *

CHARLES HIRRLINGER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Charles Hirrlinger.
Q. Where do you live, Mr. Hirrlinger? A. 6903 North Peoria.
Q. How long have you lived in and about the City of Tulsa? A. Oh, in the neighborhood of twenty years.
Q. And what is your business, Mr. Hirrlinger? A. Farming, ranching -- property owner.
Q. Do you know the defendant Jay L. Jones? A. Yes, sir.
Q. Do you know the defendant Paul Livingston? A. Yes,
972] sir.
Q. Do you know the defendant Jack Gott? A. Yes, sir.
Q. Do you know the defendant Johnnie McAfee? A. Yes, sir.
Q. Do you know John Bill Edwards? A. Yes, sir.
Q. Now, Mr. Hirrlinger, sometime after the first of the year 1957 did you have occasion to have a conversation with the defendant Johnnie McAfee? A. 1957?
Q. '56, excuse me. A. Yes.
Q. And where did the first conversation that you had with Mr. McAfee in 1956 take place? A. It was either down at his pool hall or in a cafe.
Q. Is his pool hall named the American Billiards?

A. Yes, sir.

Q. Do you recall whether this conversation took place in the daytime or nighttime? A. Daytime.

Q. Do you recall the month that the conversation took place in? A. Well, it was either February -- the last of February or the first of -- around the first of March.

973] Q. All right now, Mr. Hirrlinger would you relate to this jury the substance of that conversation to the best of your recollection? A. Well, Johnnie said he believed he could get a deal out of Jay Jones, if we could get him elected but it would cost possibly four or five thousand dollars to get him elected.

Q. Do you recall anything else that was said during that particular conversation? A. Not specifically, no, I don't.

Q. All right, when was the next time that you -- A. That wasn't all the conversati n, but then that -- I don't remember anything specifically --

Q. All right, did you have a -- when was the next time you had a conversation with Johnnie McAfee? A. I believe I had one more with him someplace down town, either at his place -- I believe it was down at his place the next time.

Q. Was that soon after the first conversation? A. Yes, pretty soon.

Q. And will you relate to the jury the substance of that conversation, please. A. Well, he said he would -- I believe he said he had talked to Jones.

Q. Excuse me, you say, he said he had talked to Jones? A. Yes.

Q. All right, what else did he say? A. He said he

974] would come out, he would call me and come out to the house as soon as he could make arrangements with Jay.

Q. Did he come out to the house? A. Yes, sir.

Q. And did anybody come with him? A. Jay did.

Q. Then you and Jay and Johnnie were there; was there anybody else present? A. No, sir.

Mr. Page: If Your Honor please, I would like for them to place the time as closely as possible.

The Court: We will get to that in a moment I assume.

Q. (By Mr. Crawford) Do you recall the month of that conversation, please? A. I believe it was in March, around the first of March.

Q. All right now, was this -- this conversation in the daytime or the nighttime? A. Daytime.

Q. And will you relate to the jury the substance of that conversation, if you please. A. Well, we went into the deal that Johnnie and I had talked about, and thought we could get a deal worked up if we could get him elected,
975] and that it would take quite a little bit of money. And --

Q. Did you elaborate -- any of the three of you, about what you meant by "deal"? A. Well, yes, we were talking mainly about gambling and liquor.

Q. Did you also talk at that time about prostitution? A. I don't believe we did.

Mr. Page: If Your Honor please, I want to renew my objection to any reference to gambling or prostitution as not being against the Federal laws, and not a part of the conspiracy and the only purpose it could serve is prejudicial.

The Court: Overruled.

Q. (By Mr. Crawford) What else was said at that conversation, Mr. Hirrlinger? A. Well, I told him I thought maybe we might be able to get a hold of the money that -- I would want to go and talk to Bill Edwards.

Q. All right and what did they say to that? A. Well, that seemed to be agreeable.

Q. Now, did you go and talk to Bill Edwards after that time, Mr. Hirrlinger? A. Yes, sir, I did.

Q. Did you talk to him once or more than once before you
976] had the next meeting?

Mr. Page: Now I'm going to object to that as calling for a conclusion on the part of the witness.

The Court: Overruled.

Mr. Page: As to the next meeting.

The Court: Objection overruled.

A. Will you repeat that please.

Q. (By Mr. Crawford) Did you talk to Bill Edwards once or more than once before you saw Jay Jones and Johnnie McAfee again? A. I couldn't say for sure. I saw him once.

Q. All right. A. I don't believe I saw him more than once.

Q. All right. When was the next time then that you had a meeting, if any, with Johnnie McAfee and Jay Jones or Bill Edwards? A. Well, I don't believe I had a meeting with the three of them just right quick.

Q. Did you have a meeting with any of them thereafter -- soon thereafter? A. Yes, I -- I talked to -- I talked to Johnnie, and -- separately, and I talked to Jay separately.

Q. All right, and where did you have your conversation with Johnnie? A. I believe down at his place.

Q. Down at the American Billiards? A. Yes, sir.

977] Q. And do you recall what was said at that conversation?

A. No, I don't -- I don't recall anything specifically.

Q. Do you recall the topic of the conversation?

A. Yes, it was about getting campaign money.

Q. All right and where did you have the conversation that you mentioned with Jay Jones? A. Well, that -- that was -- I believe the first time was up in front of the Union Station.

Q. And did you give him anything at that time? A. Yes, I gave him some money.

Q. Do you recall how much money you gave him at that time? A. I believe $200; I believe one hundred from Johnnie and one hundred from myself, I believe that's right.

Q. And was there anybody else present at that time?

A. No, sir.

Q. Now, Mr. Hirrlinger, do you recall when the next time was that you saw Jay Jones? A. No, I don't; I saw him numerous times.

Q. Did you ever give him any additional money? A. Oh, yes.

Q. Do you recall when the next time was that you gave him additional money? A. No, I -- I don't recall the next time; I gave him money numerous times.

Q. Do you recall any of the locations thereafter where

978] you gave him money? A. Well, I -- I recall -- no, I don't recall any specific locations.

Q. All right, when was the next time that you had a meeting with Jay Jones, where he was present? A. The next time?

Q. Yes. A. Well, like I say, there was so many of them I wouldn't know what the next time would mean; I had one meeting with Bill Edwards and I had, with him out at my little office there at my house.

Q. All right, when did that meeting take place, what month? A. Well, that was just before election, I imagine right at the last of March.

Q. And was that during the daytime or the nighttime? A. That was night I believe.

Q. Could that have been in the vicinity of March 30, 1956? A. About that -- around that; it was just before election, a few days.

Q. And the election was April 3rd, do you recall that? A Yes.

Q. All right now, Mr. Hirrlinger, what happened at that meeting of approximately March 30, 1956? A. Well, that's the first time that -- that's the first time that Bill
979] has talked to Jay himself. And we discussed what kind of a deal -- approximately what kind of a deal could be set up.

The Court: Well, what was said, Mr. Hirrlinger?

A. Well, as I recall it he told -- he told Bill that he would be in -- in charge of the -- of all the whisky in Tulsa -- that is all the whisky dealers.

Q. (By Mr. Crawford) All right, and what -- that is, Jay Jones that said that, is that who you mean by "he"? A. Yes.

Q. And, all right, and what did he say to you -- Jay Jones? A. Well, we both said that to Bill, really.

Q. You both said that to Bill? A. Yes.

Q. All right, was there anything said about your participation in the deal? A. Well, yes, Johnnie and I were to work out a gambling, and the -- possibly the prostitution.

Q. And did you give any money to Jay Jones at that time? A Yes, sir.

Q. How much money did you give him? A. Me, personally?

Q. Yes. A. I believe $150.

Q. Do you know how much Bill Edwards gave him, if any?
980] A. $150, and $400 that he had collected -- I mean,

contributions, in other words, there was $700 all together.

Q. Up until that time, Mr. Hirrlinger, did you have any accurate -- do you have any accurate memory with regard to how much money you had delivered to Jay Jones? A. No, sir, I don't; it was quite a little bit.

Q. Well, by "quite a little bit" do you mean as much as $1000 or what? A. That much any way, yes.

Q. Now thereafter, Mr. Hirrlinger, did you have occasion to attend another meeting at which time Jay Jones and others were present? A. After election, yes.

Q. All right. And where did this meeting take place after election? A. The same place.

Q. Was that up at your -- A. In the office of my -- at my home.

Q. And who was present at that meeting, Mr. Hirrlinger? A. Well, there was Bill, Johnnie --

Q. Do you mean Bill Edwards? A. Bill Edwards, Johnnie McAfee, Jay Jones, Jack Gott, and Paul Livingston.

Q. And was this meeting in the daytime or nighttime? 981] A. Night.

Q. And who arranged for that meeting, do you know? A. I believe I did.

Q. All right, and what was the topic of conversation at that meeting, Mr. Hirrlinger?

Mr. Malloy: If Your Honor please, I object to this topic; the witness can testify what was said -- not the topic.

The Court: Overruled.

Mr. Rucker: If Your Honor please, in order that we won't have to be continuously objecting, I take it we have an exception not only to any testimony at this moment but generally any testimony with reference to any of the defendants when they were not there -- do I understand that?

The Court: Yes, that is, any statements made with reference to a person not present; a defendant not present, would not be considered as to that person.

Mr. Rucker: Yes, sir, I mean, it is unnecessary --

The Court: It wouldn't be considered as to that person to establish the alleged conspiracy; it could only be considered if the conspiracy is shown by other evidence.

Mr. Rucker: The point I am making, it is unnecessary to object to any reference we might find coming up, because our objection stands to that, is that correct?

The Court: Yes.

982] Mr. Rucker: Thank you.

Q. (By Mr. Crawford) What was the topic of conversation, Mr. Hirrlinger, at that meeting in your home during May of 1956, where these people were present? A. Well, the main topic was the way the split would be made.

Q. Now that is, the split of what? A. Of the take.

Q. All right. And where was the take to come from?

A. To come from gambling, prostitution and liquor.

Q. Do you recall any statements that were made there by Paul Livingston? A. Yes.

Q. What were some of those statements? A. Well, he was the one that outlined the split.

Q. And how did he say the split would be made? A. It was forty per cent to Jay Jones, and twenty per cent to himself, and twenty per cent to Jack Gott, and ten per cent to Nolen Bulloch, and the other ten per cent split between Bill and Johnnie and I.

Q. Now was that in accordance with or contrary to the previous agreement that you had with Jay Jones? A. Was that what now?

Q. Was that in accordance with or contrary to the previous agreement that you had with Jay Jones? A. Well, it was contrary to it.

983] Q. And what was the previous agreement that you had with Jay Jones. A. That he would get fifty per cent and the three of us would get the other fifty.

Q. All right now, at that meeting that you were testifying to, did anybody complain when Paul Livingston explained how the split was to be made? A. Yes, I think -- I think Bill bucked up a little bit.

Q. That is, Bill Edwards? A. Yes.

Q. Do you recall, Mr. Hirrlinger, any other statements

that may or may not have been made by Paul Livingston with regard to the defendant Nolen Bulloch? A. I don't understand how you mean Mr. --

Q. Well, did Mr. Livingston say anything else at that meeting about Nolen Bulloch? A. He just said that he would come in for ten per cent, that he always wanted to try to take care of him.

Q. He said he always wanted to try to take care of him, are those his own exact words?

Mr. Rucker: I object to that as --

A. No, I mean that is approximately that.

The Court: Overruled.

Q. (By Mr. Crawford) Now, Mr. Hirrlinger, who was to
984] pick up the money from the prostitution? A. Well, the prostitution and the gambling were left up to Johnnie and I, and we had agreed -- tentatively agreed to put a bondsman down there, and eventually let him do it all.

Q. Let him pick it up, all -- A. The gambling and the prostitution.

Q. Did that agreement materialize? A. No, it didn't.

Q. All right, what did you do on those things; who was to pick up the money from the prostitution? A. I don't know that we had any agreement after that. We -- that was still left up to Johnnie and I; I mean, the two of them was left up to Johnnie and I, any way we wanted to figure it out.

Q. Any way you and Johnnie wanted to figure it out? A. Bill suggested somebody for a bondsman; I have forgotten his name.

Q. Did you -- A. Root, Sam Root, -- Sam Root -- Roop, I think his name was.

Q. Mr. Hirrlinger, after that meeting did you have occasion to have another meeting with any other defendants? A. Well, I had -- we had -- all of us had another -- another meeting in, oh, I don't know, that must have been around June.

Q. And where did that meeting take place? A. Out to
985] my farm.

Q. Is your farm at a location different than that of your home? A. Yes, sir.

Q. And where is your farm located? A. It is located just south of Sperry.

Q. Who was present at that meeting, Mr. Hirrlinger? A. The same ones that were at the other meeting.

Q. The same six including yourself that were at the other meeting? A. Yes, sir.

Q. What was the main topic of that meeting? A. Well, about the only topic I know of that there was, was discussion about letting Martin Edwards come into the deal.

Q. And was it agreed to let Martin Edwards come into the deal? A. Well, I don't believe it was, -- I don't --

Q. Was there any discussion with regard to expenses, or a mystery man? A. Yes, there was an agreement to pay the mystery man $500.

Q. Did you know who the mystery man was? A. No, sir.

Q. Did you ever find out? A. No, sir.

986] Q. Did you have any agreement to pay anyone else as expenses, money, other than the mystery man? A. Well, we had already agreed on that.

Q. All right and what was that agreement? A. That was to take out any expenses.

Q. Do you recall what the expenses were supposed to be? A. Any of the boys -- as I recall it, any of the boys that had to be taken care of.

Q. All right now, Mr. Hirrlinger, directing your attention again to June of 1956, did you have an occasion to be in company with Jay Jones, Johnnie McAfee, and Bill Edwards in the vicinity of Apache and Lewis at any time? A. Yes, sir.

Q. And did you have a meeting there? A. Yes, sir.

Q. And what was the topic of that meeting? A. I arranged that meeting to -- it seems as though there was quite a bit of dissatisfaction about the way the deal was clicking, and wanted Jay to do something about it.

Q. What did Jay say? A. He said he would do the best he could -- he would get something done.

Q. And what type of dissatisfaction was expressed? A. Well, I believe Bill was the one that was the most dissatisfied; there wasn't enough raided.

Q. All right, directing your attention to June of 1956, 987] did you have an occasion to have another meeting with Jay Jones, Johnnie McAfee and Bill Edwards near Springdale School? A. Over by the side of Springdale School, yes.

Q. And what transpired at that meeting? A. Well, about -- about the same thing, trying to get something done.

Q. Do you remember anything specifically that was said? A. And trying to find out who the mystery man was.

Q. Did you find out who the mystery man was at that time? A. I sure didn't.

Q. Did you ask Jay Jones about it? A. Yes, I did.

Q. Now, Mr. Hirrlinger, did you have occasion during June of 1956 to meet with Bill Edwards and Jack Gott at Bill Edwards home? A. In June?

Q. Well, at any time during the summer? A. I believe it was after -- I believe -- it was about July or -- or the last of June -- that was July, I think.

Q. And did you meet then in June or July at the home of Bill Edwards with Jack Gott? A. Yes, sir.

Q. And do you recall whether that meeting was during the day or the night? A. The day.

Q. And was there anybody present besides you and Jack
988] Gott and Bill Edwards? A. No, sir.

Q. And did you take anything with you to that meeting -- any money? A. Yes, sir.

Q. Do you recall about how much you took? A. Well, no, it could be anywhere from two hundred to six hundred dollars. I had picked up money from down at Johnnie's, from Dale Hines, I had done that either two or three times. I had that money, whatever it was; it could have been -- it could have been from two to six hundred dollars.

Q. And did Dale Hines hand you that money? A. On one occasion he did, yes.

Q. Did Johnnie McAfee hand it to you on the other occasion? A. He left -- Dale Hines left it to -- left it for me there, yes, either on one or two -- I might have picked them up two times.

Q. Now, when you arrived at that meeting at the home of Bill Edwards, Mr. Hirrlinger, was Jack Gott there before you arrived or did he come after? A. I believe he was there before I arrived.

Q. And will you tell the jury now, Mr. Hirrlinger, just what happened at that meeting. A. Well, there wasn't a whole
lot happened. I threw down the money that I had on the
989] desk there, and Jack and Bill started figuring things up.

Q. Did Bill contribute any money? A. Yes, he contributed practically all of it.

Q. All right. And what happened after Jack Gott and Bill Edwards figured things up? A. Well, Jack Gott got up and left and Bill told me, he says, --

Mr. Hickman: We object to this on the ground that is incompetent -- defendant Gott objects to it.

A. What was the question?

The Court: Overruled.
You started to say what Bill told you after Jack left.

A. Oh, Bill told me, he says, there is a bank roll, and pointed on the table and I picked it up.

Q. (By Mr. Crawford) And was that your money alone -- your cut alone? A. No, sir. That was Johnnie's and I took it down to him.

Q. You took Johnnie's cut down to him, is that right; where did you take it to him, where was he? A. Down at the billiards parlor.

Q. Did you give it to him personally? A. I laid it down on the desk; he was busy.

Q. He was there at the time though? A. Yes.

990] Q. About how much money was Johnnie's cut? A. I think about $200 -- two hundred and four or six dollars, just a little over $200.

Q. How much was your cut? A. The same amount.

Q. Now, Mr. Hirrlinger, during these various conversations and meetings you had with these defendants and Bill Edwards, was any discussion ever had about the -- who was going to have the bonding business down at the Municipal Court other than that you have related?

Mr. Hickman: Object to that as incompetent, irrelevant and immaterial.

The Court: Overruled. I can't be certain that it is material but it will have to, of course, be properly connected.

A. I don't believe I fully understand the question.

Q. (By Mr. Crawford) Well, was it ever agreed that

you or anyone else would have the bonding business in the Municipal Court? A. Yes, we would have it if we put the man down there.

Q. You could have it then? A. If we put the man down there, yes; that was up to Johnnie and I, strictly.

Q. Now, Mr. Hirrlinger, when you gave this two hundred, 991] or two hundred four dollars, as you say, to Johnnie McAfee, by laying it on the table, did you say anything to Johnnie? A. Oh, I think -- he was busy; I think I made some remark, told him not to spend it all in one spot or something like that.

Q. That is the only money, that two hundred or two hundred four dollars the only money that you got out of the take, or the cut? A. That's all.

Q. Then you ended up investing more than you got back, is that right? A. Considerably.

Q. Now, Mr. Hirrlinger, did you have any other meetings with any of these defendants after you delivered that money to Johnnie McAfee? A. With any of the defendants?

Q. Yes. A. Oh, yes, I saw Johnnie several times.

Q. After that time? A. Yes, sir.

Q. Did you continue to participate in this agreement after you delivered that money to Johnnie McAfee? A. No, I told Johnnie I believed I could make more money selling pencils on the street corner than that; and he agreed with me.

Q. Were any additional moneys ever delivered to you? 992] A. No.

Q. Did you have any additional meetings with Bill Edwards? A. I might have, yes, -- I expect I did. Bill Edwards called me up -- I don't know for sure that I had any meetings with him; he called me up several times. I believe I met with him too; I believe I met him a few times.

Mr. Crawford: All right, you may inquire.

The Court: Cross-examine

Cross-examination by Mr. Hickman

Q. Mr. Hirrlinger, how long had you know Jay Jones? A. Just since February or March, whenever he and Johnnie came out to my house, that's the first time I ever met him.

Q. The first time? A. Yes, sir.

Q. You had never had any transactions with him before in your life? A. No, sir.

Q. What was your interest in this plan? A. My interest.

Q. Yes. A. Well, primarily it was to make a few bucks, but I didn't do it.

Q. How? A. How?

993] Q. Yes, what -- how were you going to make your few bucks as you recall it, by a per cent of collections, or by participating in some unlawful endeavor, were you going to carry on some illegal business aside from your participation in the collection of graft? A. I hadn't planned to, no, -- not at that time; I probably would have if the opportunity had presented itself.

Q. Well, what was your plan with reference to giving money before the election to Mr. Jones; what was your -- what did you tell him -- if you told him anything, your plan was? A. I don't know that I told him anything that my plan was.

Q. Well, you said you gave him $200 over here on the Union Depot, is that what you said? A. Oh, yes.

Q. What was your conversation with him? A. That we would set up some kind of a fix deal.

Q. And you had only met him that one time before? A. That's right.

Q. Do you know whether he had ever seen you before? A. That I don't know.

Q. At the time you gave him the money, at the bus -- was it at the bus station or the Union Depot? A. Out in front of the Union Depot.

Q. Was it on Main or Boston or Cincinnati or Boulder?

994] A. Well, it was on the -- on the --

Q. Over-pass, or viaduct? A. Over-pass, and right in front of the Union Depot.

Q. Where had you seen him before that? A. I had seen him out at my house.

Q. Oh, he had been out at your house before that? A. Why, certainly, with Johnnie.

Q. Just the two of them? A. Yes, sir.

Q. Were you introduced to Mr. Jones by Johnnie at that time? A. Yes, sir.

Q. Well, what did you say -- what did you tell him you

planned to do -- you then planned to do? A. Set up a gambling and whisky deal, if Bill Edwards come in, if he agreed to handle --

Q. And what was Jones supposed to do? A. He was supposed to participate -- I mean, take a cut of it.

Q. Well, what benefit did you get -- just from the cut or from participation in liquor or gambling? A. I didn't have any liquor or gambling; I had no way of participating in liquor or gambling.

Q. You had no interest in any gambling house? A. No, 995] sir.

Q. You had no interest in any liquor place? A. No, sir.

Q. You were renting your Drake Hotel here for -- A. Yes, sir.

Q. That was a place where liquor is kept -- isn't it? A. Yes, sir, it was, -- past tense.

Q. Well, it was raided and whisky was found by police there just night before last, wasn't it? A. That I don't know.

Q. Who is your tenant now? A. I don't have any.

Q. Well, who is your manager? A. Who is my manager?

Q. Yes. A. I don't have any manager.

Q. Well, who is operating -- A. It is vacated.

Q. When was it vacated? A. Today.

Q. Who was your manager yesterday? A. I didn't have any manager; I rent the place; I own the property.

Q. Well, who did you rent it to? A. Mrs. Bundy -- Mrs. Pat Bundy.

Q. Is she a liquor dealer? A. I don't think she has a 996] liquor stamp.

Q. Well, does she engage in the sale of intoxicating liquor secretly? A. She never did sell me any.

Q. Did you ever see her sell any one else any? A. No, sir.

Q. In your various discussions with reference to the whisky business, in the discussions that you heard at these meetings as you have testified to, what, if anything, was Jay Jones supposed to do? A. Well, he was supposed to furnish the police protection.

Q. Do you have some heart condition, Mr. -- A. Yes, sir.

Q. Am I exciting you? A. Yes, you are.

Q. Well, just be calm. I'm not trying to excite you; I just want to get at the facts.

In other words, the plan was, there was to be a pay-off from the liquor dealers and the gambling places, and having paid off they would be free, or assured freedom from raids, by the vice squad and raiding squads of the City Police Department? A. Yes, sir.

Q. With reference to the liquor dealers, who was to take
997] care of the Federal Law Enforcement, or was that no discussed? A. That wasn't discussed.

Q. It never was brought up in any conversation? A. Not with me; I wouldn't know what they were talking about anyway.

Q. Well, the idea was to get the liquor dealers --
A. The city protection.

Q. Against raids and arrests and seizures by the Police Department, the raiding squad or the Police Department of the City, that's right, isn't it? A. That's right.

Mr. Hickman: That's all.

Cross-examination by Mr. Page

Q. Mr. Hirrlinger, did you frequent Johnnie McAfee's establishment prior to this -- you did frequent his place of business, didn't you, Mr. Hirrlinger? A. No.

Q. Prior to any date that you have mentioned here?
A. No, I wouldn't say frequented it; I had been in it several times, yes, sir.

Q. You also had -- were in the business were you not, at that time, of slot machines and marble machine business in Tulsa County? A. No, sir.

Q. You weren't? A. No, sir.
998] Q. Were you in the marble machine business? A. No, sir, I haven't been in years.

Q. How long has it been, Mr. Hirrlinger? A. It has been several years.

Q. Several years? A. Yes, sir.

Q. You have retired from that business at this time?
A. Yes, sir.

Q. I believe you stated that the first time that this was mentioned to you was when you were in Johnnie's place of business and you discussed it? A. I think so, yes, sir.

Q. Yes, sir. You were just down there at his place of business, is that correct? A. Yes.

Q. And you and he started talking, is that right? A. That's right.

Q. Then you say you came back there on numerous other times and discussed this with Mr. McAfee? A. At least once or twice.

Q. All right. Now, Mr. Hirrlinger, I call your attention to where you say this distribution of money was made at Bill Edwards' house, you stated that you had $200 for Johnnie, is that correct? A. A little over two hundred, yes, sir.

Q. $200. And that you brought it down to his establish-
999] ment and he was busy and you laid it on a counter, is that correct? A. I laid it on the desk.

Q. Was any one else present? A. He was.

Q. Well, if he was busy did he have other customers in there, Mr. Hirrlinger? A. Well, that was back in his office.

Q. Back in his office? A. Yes, sir.

Q. Where is it situated in the -- A. Just back of his counters there, --

Q. It is not completely enclosed is it? A. Yes, I believe it is; well, there is a doorway -- there is a doorway, certainly.

Q. It is open to his employees and everyone is right there at the door, that is where the counter is, isn't it? A. Yes, sir.

Q. Well, was there any employee standing there at that time? A. I don't believe there was.

Q. There wasn't anybody there -- was there anyone out
1000] in his place of business? A. Oh, I imagine -- yes, there was customers.

Q. Well, did you recognize any one there? A. No, sir.

Q. You frequented there and knew his customers, didn't you? A. No, sir.

Q. You did not? A. No, sir.

Q. You don't recall seeing any one there that you know of? A. No, sir, I don't.

Q. Do you remember the date? A. No, sir.

Q. Do you recall whether or not you ever placed any bets with Johnnie? A. I don't believe I ever did.

Q. You don't believe you ever did. How long have you known Bill Edwards? A. Oh, for -- since I have Johnnie, or longer.

Q. Yes. A. Twenty -- fifteen years.
Q. Has Bill Edwards ever stored any liquor on any of your property? A. Yes, I believe he has.
Q. When was that, please, sir? A. I don't know, way
1001] back in '40 -- something -- '47 or --

Mr. Page: I believe that's all.

Mr. Ungerman: That's all.

Mr. Crawford: I have no further questions.

The Court: All right, you may be excused.

* * * * *

ERNEST C. CARTER, recalled as a witness on behalf of the Government, testified:

Mr. Crawford: If the Court please, Mr. Carter was recalled at the request of the defendants for further cross-examination.

Cross-examination by Mr. Ungerman

Q. You are the same E.C. Carter who testified previously in this trial? A. Yes, sir.
Q. Now, Mr. Carter, you testified yesterday relative
1002] to alleged pick-ups of moneys and payments made thereof to an officer named A.A. Graves, is that correct?
A. Yes, sir.
Q. Mr. Carter, did you testify before a Federal Grand Jury called in this district in this building on April 11, 1952?
A. Yes, sir.
Q. And at that time was the Honorable Whit Y. Mauzy District Attorney? A. Yes, sir.
Q. And did Mr. Mauzy handle your questioning at the outset, before the Grand Jury? A. Yes, sir.
Q. I will ask you, Mr. Carter, if at that time, before a Federal Grand Jury, were you sworn to tell the truth?

A. Yes, sir.

Q. And I will ask you if you were asked these questions by Mr. Mauzy, the then United States Attorney, and while you were under oath, and you made the following answers thereto:

Question: Now, Mr. Carter, there has been information that has been suggested to this body that you are the "fix" for the present city administration and that you have been a collection man for them and that you have collected from various people money for protection, and tip-off, is
1003] that correct?

Answer: That is not correct.

Did you have that question propounded to you and did you give that answer under oath? A. Yes, sir.

Q. Were you asked the following question and did you give the following answer thereto:

Have you ever collected any money directly or indirectly from any one for protection or for any favors or for tip-offs in so far as the Tulsa Police is concerned?

And your answer was, No, sir.

Was that question -- A. Yes, sir.

Q. And answer given? A. Yes, sir.

Q. Were you asked the following question and gave the following answer:

We have information here that you have collected money particularly from certain bootleggers every month so that they would not be raided; have you done that?

Answer: No, sir.

Did you give that answer to that question? A. Yes, sir.

Q. Question: I have also understood that you have paid
1004] to Arthur Graves certain money for protection.

Answer: That is not true.

Did you give that answer to that question? A. Yes, sir.

Q. "Also the information has been given that you are the representative of certain of the madams here that run

these houses and that you have been tipping them off prior to the time their places are raided."
Answer: That is not true.

Did you give that answer to that question?

The Court: I don't believe that question would be material. This is admissible for impeachment purposes and it should be limited to those questions and answers which would tend to impeach the testimony given yesterday.

A. Pardon me, Judge, -- whatever story that I made there, I can cut that short -- I will agree with what he has there, as -- that I did it as he says, there. I denied everything there at that time. If that will shorten the story any.

The Court: All right, you may proceed.

Q. (By Mr. Ungerman) I will ask you if you gave this answer to this question:

Have you given any of these police officials and personnel of the Police Department any gifts.
No, sir.

Did you give that answer to that question? A. Yes, sir.
1005]

Q. "Question: And I want to call your attention particularly to the oath you have taken; you understand it do you not?
Answer: Yes, sir.

Did you give that answer to that question? A. Yes, sir.

Q. "Question: I want once again to ask you this question: As to whether or not you have collected or paid any money, connected with protection, or officers, or favors, or tip-offs, for any member of the Tulsa Police Department.
Answer: I have not.

Did you give that answer to that question? A. Yes, sir.

Q. "Question: And do you know Cecil Boone?

"Answer: Yes, sir.

"Question: Did you help him collect money?
"I did not.

"Question: Did you consult with him as to who would be good prospects to go out and get money from?
"Answer: No, sir."

Did you give those answers to those questions? A. Yes, sir.

Q. "Question: Do you know --"

The Court: I think you can ask one general question 1006] that will suffice now.

Q. (By Mr. Ungerman) All right now, Mr. Carter, the testimony that you gave before the grand jury on April 11, 1952, was all under oath, wasn't it? A. Yes, sir.
Q. And that testimony that you gave before the grand jury is contradictory to that which you gave here on the witness stand under oath yesterday, isn't that correct? A. Yes, sir.
Q. One of those stories that you told was deliberate perjury, isn't that correct? A. Yes, sir.

Mr. Ungerman: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Carter, you also appeared before a Federal grand jury on February 15, 1957, did you not? A. Yes, sir.

Mr. Ungerman: We object to that unless counsel has a transcript, if he wants to permit to be used.

The Court: Objection overruled.

Q. (By Mr. Crawford) And, Mr. Carter, you stated that at one of the times you testified you did not tell the truth. Which time was it, Mr. Carter?

Mr. Rucker: We object to that question. The witness
1007] answered that he committed deliberate perjury. I think there is a difference between deliberate perjury and not telling the truth.

The Court: That is something of a refinement, but I don't believe his question is improper. The objection is overruled.

Mr. Ungerman: May I further suggest that the question given and the answer sought would invade the province of the jury as to the determination as to which of the times the witness was telling the truth.

The Court: Well, the jury of course will ultimately make the decision but it is not -- it is a proper subject matter for this witness to discuss also. The objection is overruled, gentlemen.

Mr. Rucker: I don't want to belabor the point -- if I may just make this observation: A man may intentionally or unintentionally tell the truth or an untruth but this witness has testified just a moment ago that he committed deliberate perjury. So therefore the question is improper for that reason because --

The Court: I have ruled that it is not improper for that reason.

Mr. Rucker: All right, sir.

Q. (By Mr. Crawford) Mr. Carter, at which time did you not tell the truth? A. In 1952, I believe it was at that time -- I didn't tell the truth.
1008] Q. And why didn't you at that time, Mr. Carter? A. Well, because I didn't --

Mr. Ungerman: That's objected to -- just a minute, Red, please, -- we object to that as calling for a conclusion.

The Court: Objection overruled; I want to know; I think it is a matter of interest, and quite material.
Why did you testify falsely at that time,

when you appeared before the grand jury?

A. Well, I figured that it wasn't going to amount to a lot, and apparently no one else was going to admit it, as far as I knew, and I would keep from incriminating myself and other people.

The Court: All right, that's all; you may cross-examine.

Cross-examination by Mr. Ungerman

Q. Mr. Carter, one question: How many times have you been convicted of a felony? A. One time.

Q. What was the charge? A. Liquor possession, about twenty-four ot twenty-five years ago, and I got an unconditional pardon eight years later.

Mr. Ungerman: Thank you.

Mr. Crawford: I have no further questions unless he would like to make a statement.

The Court: No, that's all -- you stand aside.

A. I will say, other than this --

1009] The Court: No, no, no, that's all; you will be excused.

GLENN BROWN, recalled as a witness on behalf of the Government, testified:

Mr. Crawford: May Mr. Carter leave now, Your Honor; he would like permission to go back home.

The Court: Yes, he may be excused.

Direct Examination by Mr. Crawford

Q. You are Glenn Brown and you are the Tulsa County Sheriff and you have testified before, is that right, Mr.

Brown? A. That's correct.

Q. Now, Mr. Brown, do you recall a conversation you had with John Bill Edwards, and Bill Curlee, during November of 1956? A. Yes, sir, I do.

Q. And do you recall where that conversation took place? A. Yes, sir, it was at 31st and Yale.

Q. And as a result of that conversation, Mr. Brown, what 1010] action did you take? A. Well, the first thing I --

Mr. Ungerman: That's objected to as being incompetent, irrelevant and immaterial.

The Court: Overruled.

A. The first thing I did, -- that was on a Sunday evening that I had the conversation, and the following week I got in touch with Mr. Jim Rogers of the Alcohol Tax Unit and conveyed to him the information which I had received the night before. In addition to that we had been pursuing an ever-increasing policy of enforcement against liquor violations in the county and with this information which we had, we increased and added to our liquor raiding squad and increased our activity several times what we had previously been doing. We aimed the brunt of our attack at the persons mentioned in the information which I received, basically, as well as other people.

Q. Did you raid Buck's Garage? A. Innumerable times, and I think we put him out of business, which is --

Q. Did you raid any of the other defendants? A. Yes, sir, we have -- raided --

Mr. Malloy: Just a minute, please. Your Honor, it seems to me that this hasn't any probative value. I think if the Sheriff's office received information as to law violation from any source, and with the field of -- I think the ATU man said, some one hundred fifty bootleggers had the retail stamps; if he raided these defendants -- if he 1011] raided any other persons, I don't see any probative value in the question or the answer. He started on a chain of answers -- he started raided these defendants.

The Court: Well, of course it wouldn't have been admissible except that certain information developed by cross-examination. That is one difficulty with excessive

cross-examination; it opens up very frequently collateral matters that otherwise might not properly be inquired into. This matter was developed and pointed up, as a result of cross-examination of the witness Edwards; and the witness Edwards was asked what various officials that he had talked to and had communicated this information to.

Mr. Malloy: I see; all right.

The Court: And he testified that he gave some information to Mr. Brown. If for no other reason than fairness to Mr. Brown he should be permitted to make some explanation. I don't want it to go too far.

Mr. Malloy: Yes, sir. Thank you.

The Court: It is a collateral issue and it is unfortunate that it came into this, but sometimes when they are brought in we have to go into them to some extent. I think the inquiry should be rather limited.

Mr. Crawford: I have completed my inquiry, Your Honor, with my last question.

1012] Mr. Ungerman: No questions.

The Court: All right.

RICHARD CARTET, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford:

Q. State your name, please. A. Richard Carter.
Q. Mr. Carter, you are a police officer with the City of Tulsa Police Department, is that correct? A. Yes, sir.
Q. And how long have you been so employed as a police officer? A. About four and a half years.
Q. Have you ever served on the raiding squad, Mr. Carter? A. Yes, sir.

Q. And do you recall the approximate times that you served on the raiding squad? A. From March 21, 1955, 'til May 12, 1956.

Q. What other officers were assigned to the raiding squad at that time? A. Marvin Hicks, Paul Smith, Charley Brooner, Bill Harper, and Sherman Spybuck.

Q. Mr. Carter, for the benefit of the jury, is the
1013] raiding squad a part of the vice squad? A. Yes, sir.

Q. Would you explain to the jury how the vice squad is composed, the components of the vice squad. A. We have two in the rooming house detail, two in the tavern detail, two colored whisky raiding squads, and three to four whisky detail.

Q. Now the rooming house detail is the one that looks after any so-called houses of prostitution as well as rooming houses, is that correct? A. Yes, sir.

Q. And the tavern detail, those two officers are looking after the beer taverns and the licenses, and juveniles and things such as that under any beer taverns, are they not? A. Yes, sir.

Q. And your two negro members of the raiding squad, whisky raiding squad concentrate normally their efforts in the north Tulsa area, is that correct? A. Yes, sir.

Q. And your three to four white raiders, more or less concentrate their efforts in the other parts of town, is that correct? A. Yes, sir.

Q. Mr. Carter, is there one man in charge of this
1014] entire organization, this entire group? A. Yes, sir.

Q. He is usually the man referred to as the head of the vice squad, is that correct? A. Yes, sir.

Q. And is he usually a sergeant or a lieutenant or somebody with some rank? A. Yes, sir.

Q. Now, Mr. Carter, during the time that you spent on the raiding squad as a part of the vice squad, did you find that you knew most of the bootleggers in operation? A. Yes, sir.

Mr. Ungerman: We object to that, object as calling for a conclusion on his part that he thinks he knew most of the bootleggers; it would be a creation of his own mind.

The Court: Overruled.

Q. (By Mr. Crawford) And did you or did you not become somewhat familiar with their methods of operation? A. Yes, sir.

Q. And your entire time then on duty was more or less concentrated to raiding whisky dealers, is that correct? A. Yes, sir.

Q. Now, Mr. Carter, for the benefit of the jury it is comparatively easy, is it not to get a warrant for a walk-in, is that right? A. Yes, sir.

Q. Because it cannot move around, is that the reason? 1015] A. Yes, sir.

Q. And it is comparatively difficult to get a warrant for a liquor dealer's automobile, is that right?

Mr. Hickman: We object to this leading and suggestive method of examination.

The Court: Overruled.

A. Yes, sir.

The Court: You refer to a search warrant, do you not?

Mr. Crawford: Yes, sir. I am speaking of a search warrant.

The Witness: Yes, sir.

Q. (By Mr. Crawford) Is that what you thought I had in mind? A. Yes, sir.

Q. Now, Mr. Carter, do you recall the date that you were transferred from the raiding squad, -- raiding squad of the vice squad -- A. Yes, sir.

Q. Is it referred more accurately to, as the raiding division of the vice squad, or just the raiding squad? A. The raiding squad.

Q. What date was that, Mr. Carter? A. It was May 12, 1016] 1956.

Q. I hand you what has been marked for identification as Government's Exhibit 10, and ask you to tell the jury what that is, please. A. This is the letter that I received to be transferred from the vice squad to the patrol division.

Q. What is the date of that letter? A. May 12, -- the letter was written May 11, 1956.

Q. And who is it signed by? A. Paul Livingston, Chief of Police.

Q. Then effective May 12 you did transfer from the vice squad to the patrol division, is that right? A. Yes, sir.

Q. Now, Mr. Carter, prior to that date when you received the letter did you have occasion within a day or two thereof -- did you have a conversation with the defendant Jack Gott? A. Yes, sir.

Q. Did you have an occasion within a day or two prior to your transfer to have a conversation with the defendant Leo Jackson? A. Yes, sir.

Q. Which conversation took place first? A. With Leo Jackson.

Q. And where did it take place? -- In the Police Station? A. Yes, sir, in the vice squad room.

Q. And do you recall the date of the conversation? 1017.] A. Yes, sir.

Q. What was the date? A. May 11, 1956.

Q. And will you relate that conversation to the jurors, please. A. We came to work about noon, and Leo Jackson was in the vice squad and I went over to the record, and he was standing beside it and he asked me if anybody had approached me yet, and I asked him, what about. He said, Well, nothing. That was all.

Q. That was all that conversation. All right, did you have a conversation then shortly thereafter with the defendant Jack Gott? A. Yes, sir.

Q. And where did that conversation take place? A. He called me out in the hall and asked me if I wanted to stay in the vice squad and I said, Yes, I would like to. He said, Well, let's go somewhere where we can talk. So we went out on the patrol -- or on the parking lot and got in the car.

Q. Now this is the parking lot at the rear of the police station? A. Yes, sir.

Q. All right, proceed. A. And I said, Well, let's just 1018] drive around. He said, All right.

Q. And who drove the car? A. I did.

Q. And where did you go? A. We started south on Elgin to 11th Street, east on 11th to Yale, south on Yale to 41st, west on 41st to Riverside, back up Riverside to Denver, and

back up to 11th, and then on to the station.

Q. And was there anybody else in the car with you at that time? A. No, sir.

Q. Now, Mr. Carter, will you tell us, please relate as accurately as you can recall, the conversation that took place between you and Jack Gott while you took that route in and about the city of Tulsa. A. Jack said, Dick, he said, now there is something you are going to have to go along with; and I asked him, what was that. Well, there is certain bootleggers you are going to have to leave alone. I said, Well, which ones are they. He said, Well, I want to know for sure whether you are going along with it or not. I said, Well, I don't know what the deal is. He said, Now you are not going to get any money out of it. I said, Well, I don't want any money. He said, Well, you will get some days -- if you want a week or two weeks off, why the Sergeant will mark you up.

There will be some time off on it, he just told me,
1019] and I will come down and mark you up. And I said, Well,
who is in the -- in the fix? And he said, Well, Bill Edwards is going to run it. I said, Well now how about Martin, his brother. He said, Well, they will probably go along too with it. I asked him, Who else. He said, Well, just some more of the boys. And the conversation ran on, I don't remember now the rest of it, until we got out to 41st and Yale, and I saw a bootlegger sitting in the Phillips 66 Station there.

Q. And who was that bootlegger? A. A.D. Miller.

Q. Sometimes known as Pete Miller? A. Yes, sir.

Q. And I said, Jack, there is, I believe would be a load of whisky. I said, That's a bootlegger and I said, Let's get him. He said, Well, who does he work for? I said, Little Griff, and he said, No, we have got to lay off of him. So I started on south, and the conversation continued along the same line. I was trying to find out who was going to be in on it. I asked him about Tex Rucker, Lee Johnson, Massey brothers, and he said, yes, he said, they are going to be in on it. So, we got to 41st Street and Yale and I saw another bootlegger. I said, there's another car coming south from the plant, and I said, Shall we get him? He said, Who is it? I said, that is Tex
Rucker's boy, Doyle McAnnally or not Doyle McAnnally
1020] but, McAnnally and he said, No, he said, we are going
to have to leave him alone. So we started west on Yale -- or west on 41st Street, to come on in, and we got down to the station, and I told Jack, I says, Jack, I can't go along

with you; I don't like it.

Q. That was the end of the conversation? A. Yes, sir.

Q. How long after that was it when you received a letter transferring you from the vice squad? A. I got word that afternoon, a little later on.

Q. Who gave you the word? A. Charley Brooner.

Q. Had he been a partner with you? A. Yes, sir.

Q. You and he were both transferred at the same time, is that right? A. No, sir, Charley Brooner had been transferred a couple of days before.

Q. Oh, he had been? A. Yes, sir.

Q. Now, Mr. Carter, did you ever go to the Police Commissioner and advise him of what you thought was going on? A. Yes, sir.

Q. And when did you do that? A. The latter part of
1021] July.

Q. All right. And where did you go to meet him? A. At his house.

Q. This was the home of Jay Jones? A. Yes, sir.

Q. And was this during the daytime or nighttime? A. It was Sunday afternoon.

Q. Was there anybody with you at the time? A. Yes, sir.

Q. Who was with you? A. Johnnie Walker.

Q. Is he a friend of yours? A. Yes, sir.

Q. And what did you tell Jay Jones at that time? A. I told him about the same story that Jack Gott told me.

Q. And what did Jay Jones say? A. He said he wasn't in it.

Q. He did? A. Yes, sir.

Q. Did he say -- did you ask him to do anything about it or did he say he was going to do anything about it? A. I asked him to clean up that Police Department.

Q. What did he say to that? A. He said that he would look into it.

Q. Was that about the extent of the conversation? A. Yes,
1022] sir.

Q. All right, did you talk with him at that time about any other defendants such as Little Griff?

Mr. Malloy: If Your Honor please, I object to that as leading and suggestive.

The Court: Overruled.

A. Yes, sir.

Q. And what did you talk with him about in that regard? A. I told him, I said, there is -- I believe there is a plant in about four blocks of his house.

Q. Four blocks of Jay Jones house? A. Yes, sir.

Q. Did you tell him -- now at this point, for the benefit of the jury, what do you mean by "a plant"? A. That is where a bootlegger lives and may store whisky there.

Q. Is the plant, normally referred to in the police profession, in the bootlegging trade, is the place where the particular dealer stores his whisky? A. Yes, sir.

Q. And you advised him, Mr. Jones, there was a plant -- did you say anything else to him with regard to this plant? A. No, he asked me where it was at. I told him and he says, Well, I will check and see if it is still there -- or, no, he says, you check it, and we will get a search warrant and go down there.

1023] Q. All right, did you check it later that night?

A. Yes, sir.

Q. And was it still there? A. Well, there wasn't anything in the garage.

Q. Now, Mr. Carter, did any of these defendants, Martin Edwards, Elmer Oakley, Lee Johnson, Neal Williams, Tex Rucker or John Hood ever offer you any money while you were a member of the vice squad? A. Yes, sir, John --

Q. Which one or ones? A. John Hood offered me $400 one night.

Q. Do you recall when that night was? A. No, sir, it was in June of '55, I believe.

Q. Was this $400 in cash? A. Yes, sir, he said it was.

Q. What did he say to you at the time? A. Just a little before that Mr. Rucker asked me to lay off of him. And he said, What would it cost to have me to -- or have you to lay off of me. And I said, Well, I said, about two. He said, Well, I will go that route, $200 isn't cheap, or not too much. I said, $200,000. Oh, he said, you are kidding now. I said, Yes, sir, I sure am. So I went in and told the Chief a man tried to proposition me, and he said, Well, if he still wants to go that route, just --

1024] Mr. Ungerman: We object to that -- unless he --

The Court: Yes, conversation with the Chief wouldn't be admissible.

Mr. Hickman: Which Chief is he talking about?

The Court: Who was Chief of Police?

A. Joe McGuire.

The Court: That wouldn't be admissible.

Q. (By Mr. Crawford) What did you do after you had that conversation with Joe McGuire. A. He told me to go ahead and set him up, if he wants to go that route, we will put him in the penitentiary for bribery.

Q. What happened next, if anything? A. Yes, sir, we had a few meetings and during the following week Mr. Hood called me one afternoon, and said he was going to be out of town for a few days and asked me to take this $400 and stay off of him until the first of the month. Then he said, we will get everything organized right.

Q. Did you take the money? A. No, sir.

Q. What did you say to him? A. I told him I would have to see the Captain; he was in charge of it.

Q. Did he ever make an offer to you thereafter? A. No, sir.

Q. Now, Mr. Carter, have you ever arrested the defendant 1025] Elmer Oakley? A. Yes, sir.

Q. Have you ever caught him with liquor in his car? A. Yes, sir.

Q. Do you know him, from your experience, to be a man engaged in the bootlegging business? A. Yes, sir.

Q. Have you ever arrested the defendant Martin Edwards? A. Yes, sir.

Q. Have you ever got liquor in his car? A. No, sir.

Q. Have you ever caught any one who worked for him with liquor in his car? A. No, sir, not that I can remember.

Q. Do you know Martin Edwards from your experience as one who is engaged in the bootlegging business? A. Yes, sir.

Q. Have you ever arrested the defendant Lee Johnson? A. No, sir.

Q. Have you ever arrested any of his runners? A. Yes,

sir.

Q. Have you caught liquor in their cars? A. Yes, sir.

Q. And do you know Lee Johnson as one who engages in the bootlegging business? A. Yes, sir.

Q. Have you ever arrested the defendant John Hood?
1026] A Yes, sir.

Q. Do you know of any establishments operated by John Hood? A. Yes, sir.

Mr. Malloy: Object to that, if Your Honor please, unless the witness states how he knows; in fact, we have let him go pretty long, talking about boys who work for so and so. I don't know how this witness would know who they are.

The Court: I believe I will sustain the objection.

Q. (By Mr. Crawford) Do you know of any liquor establishment, or walk-in joint operated by John Hood? A. Just what the operators tell me.

Q. The operators?

Mr. Malloy: Object to that, if Your Honor please.

The Court: That's wouldn't be admissible.

Q. (By Mr. Crawford) Have you ever arrested the defendant Tex Rucker? A. Yes, sir.

Mr. Gotcher: To which we object for the reason -- unless he is charged with being a bootlegger, but violating Federal Law.

The Court: All right, I sustain the objection.

Q. (By Mr. Crawford) Do you know the defendant Tex
1027] Rucker? A. Yes, sir.

Q. Do you know that he is a person who engages in the bootlegging business?

Mr. Gotcher: To which we object as incompetent, irrelevant and immaterial to the issues in this case; he is charged with violation of Federal Law.

The Court: Objection overruled.

Mr. Gotcher: Allow us an exception.

Q. (By Mr. Crawford) You may answer the question.
A. Yes, sir.
Q. Have you ever caught him with liquor in his possession?

Mr. Gotcher: To which we object; it doesn't tend to prove any issue in this case, catching whisky in the car.

The Court: Overruled.

A. Yes, sir.

Mr. Malloy: Will you give us a running objection to all this line of questions?

The Court: Yes, sir, the record may show the defendants' objections to this particular line of testimony and the objection is overruled.

Q. (By Mr. Crawford) Now, have you ever -- have you ever -- or do you know the defendant Neal Williams? A. I don't believe I have ever met him.
Q. Do you know the defendant Fred A. Griffing? A. Yes, 1028] sir.
Q. Do you know whether he is an individual who engages in the bootlegging business? A. Well, I know his pint pitcher.

Mr. Malloy: If Your Honor please, I am going to object to that answer again, move it be stricken, and the jury be admonished not to consider it.

The Court: The statement that he knows him to be a pint pitcher?

Mr. Malloy: No, he knows his pint pitcher.

The Court: I misunderstood him.

Mr. Crawford: He said he knows his pint pitcher.

The Court: I will sustain the objection and the jury should not consider the answer given by the witness to that last question.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Hickman

Q. Who is this Johnnie Walker that you mentioned who accompanied you to Jay Jones house? A. He is the photographer for the World paper.

Q. For the Tulsa World? A. Yes, sir.

Q. Did he make the rounds with you on your travels as a member of the raiding squad? A. No, sir.

Q. How did he happen to be with you on this particular 1029] afternoon? A. He called me.

Q. You were not on duty that afternoon? A. No, sir.

Q. What did you do; pick him up? A. No, sir, he picked me up.

Q. And you -- you drove to Mr. Jones' house? A. Yes, sir.

Q. He drove? A. Yes, sir.

Q. Did he go in with you? A. Yes, sir.

Q. And this was on what day, Mr. Carter? A. A Sunday afternoon.

Q. What date, do you remember? A. No, sir, the exact date I don't.

Q. Was it after you had been transferred? A. Yes, sir.

Q. Did you want to really go back to the vice squad? A. When was that, now?

Q. When you were transferred to the traffic department? A. Well, I -- I don't quite get what you mean?

Q. Did you want to stay on the vice squad? A. Yes, 1030] sir.

Q. It is difficult to keep men on that squad, isn't it? A. Yes, sir.

Q. Most of them want off of it? A. Yes, sir.

Q. But you were one who wanted to remain on? A. Yes, sir.

Q. You say that Mr. Gott told you that you would have to go along and not bother certain bootleggers, is that your testimony? A. Yes, sir.

Q. And you reported that to Mr. Jones? A. Yes, sir.
Q. Did you tell Mr. Jones what Mr. Gott had told you on this journey? A. Yes, sir.
Q. You are sure of that? A. To the best of my ability.
Q. What did you tell him you wanted him to do for you?
A. I wanted him to clean up the Police Department.
Q. Well, had the Police Department been in a mess?
A. That's what I have always heard.
Q. How long have you been with the Police Department?
A. Four and a half years.
Q. Been in a mess all that time, has it? A. That's
1031] what I have always heard.
Q. And that's what you believe? A. Yes, sir.

Mr. Hickman: That's all.

Cross-examination by Mr. Malloy

Q. Mr. Carter, please, sir, you have been in the Police Department four and a half years, is that right? A. Yes, sir.
Q. What was your first assignment? A. Traffic Division on the corner.
Q. And how long were you on that assignment? A. About -- about six and maybe seven months.
Q. And who was the Police Commissioner at that time?
A. Mr. Jones.
Q. And then did you have a change of assignment?
A. Yes, sir.
Q. And what department did you go to work in then?
A. Patrol Division.
Q. And how long were you in the Patrol Division?
A. To November of '54, I believe it was.
Q. Well, how long was that approximately? A. About a year and a half.
Q. Then you received another assignment, didn't you?
A. Yes, sir.
Q. What was that assignment? A. Detective Bureau.
1032] Q. Now who was the Police Commissioner then? A. Johnnie Henderson.
Q. And who was the chief detective then? A. I don't believe we had a chief of detectives then.
Q. Well, how long did you stay in the Detective Bureau

at that time? A. About -- about three or four months.

Q. Then you received another assignment? A. Yes, sir.

Q. What assignment did you get that time? A. Vice squad.

Q. You were on that how long? A. About -- a year and about two months.

Q. That was mainly in the Henderson administration? A. Yes, sir.

Q. And so then all told in your brief experience you had about four or five different assignments while a member of the Police Department, is that right? A. Yes, sir.

Q. That's not unusual, is it? A. No, I guess not.

Q. Now, while you were a member of the vice squad for about a year and interested in cleaning up the town of bootlegging and so on, did you know where Bill Edwards 1033] lived? A. Yes, sir.

Q. What is that address? A. Exact address I don't know.

Q. You know he was a bootlegger, don't you? A. Yes, sir.

Q. Was he living at that address on Florence at that time? A. Yes, sir.

Q. Mr. Crawford said it was an easy matter to get a search warrant to search a house, wasn't it? A. Yes, sir.

Q. Did you ever get a search warrant to search Bill Edwards' house? A. No, sir.

Q. You were on there one year, weren't you? A. Yes, sir.

Q. Were you purchasing a Cadillac or were you driving a Cadillac while you were on the vice squad under Henderson? A. No, sir.

Mr. Malloy: That's all.

Mr. Crawford: If the Court please, we object to the comments of counsel.

Mr. Hickman: I can speak to my co-counsel.

The Court: Yes, I think it's all right.
Any other questions?

1034] Q. (By Mr. Malloy) Do you have any rules that you cannot arrest or knock off these bootleggers unless you are a member of the vice squad? A. No, sir.

Mr. Malloy: That's right -- that's all.

Cross-examination by Mr. Gotcher

Q. Mr. Carter, what did you say your particular job was today in the Police Department? A. In the Patrol Division.
Q. Have you been suspended lately? A. No, sir.
Q. Are you on leave? A. Yes, sir.
Q. How long have you been on leave? A. I believe I took leave March 4th, I think.
Q. March 4th. Now you said something about Don Rucker, having a conversation with him, did you not? A. Yes, sir.
Q. When did that take place? A. The exact date I don't know.
Q. The exact date you don't know? A. No, sir.
Q. Where did it take place? A. The west side of the Police Station, we had just arrested his pint pitcher.
Q. His pint pitcher? A. Yes, sir, bootlegger.
1035] Q. Sir? A. His bootlegger --
Q. His bootlegger? A. His delivery boy.
Q. Well now, he was the delivery boy, wasn't he? A. Yes, sir.
Q. And he wished to give you some money? A. Who's that now?
Q. Don Rucker? A. Yes, sir.
Q. Did you take it? A. No, sir.
Q. Why didn't you? A. I didn't want it.
Q. Now then, you went to the Chief of Police Joe McGuire, and he said for you to set him up? A. He said to go along with him until he hands you the money.
Q. Well, when did he hand it to you? A. He never did.
Q. Did you ever have any conversation with him after that night? A. No, sir.
Q. Uh huh. Did he offer you the money? A. No, sir.
1036] Q. Did you offer to take it? A. No, sir.
Q. Then you wasn't trying to set him up, were you? A. I was trying to get along with him.
Q. Well, but now, you were a policeman; what did you

think that the Chief meant when you were to set him up, to send him to the penitentiary? A. I don't know what the Chief thinks.

Q. Well, what did you think he meant; you are a policeman, an expert; didn't you think he wanted to set him up for bribery, so you could send him to the penitentiary? A. Yes, sir.

Q. You didn't go to the County Attorney's office and tell the County Attorney about this bribery? A. No, sir.

Q. You have a very unusual memory as to the routes you went with this Jack Gott that you say went on this ride; now tell us again how you went? A. We left the station, went south on Elgin to 11th Street.

Q. What was the conversation up to that point?

The Court: Well, wait a minute, let him finish his
1037] his answer there to the question.

Q. (By Mr. Gotcher) Well, go ahead.

A. We went south on Elgin to 11th Street, east on 11th to Yale, south on Yale to 41st, west on 41st to Riverside, on Riverside up to Denver, Denver to 11th, and east on 11th to the station -- in a round-about way.

Q. Well, now, you were going down 41st Street; what was the conversation while you were on 41st Street? A. Oh, I was still asking about who all was going to be in it.

Q. You wanted to know, didn't you? A. Yes, sir.

Mr. Gotcher: All right, as this time Your Honor we move that Your Honor instruct the jury that since the defendant Tex Rucker was not present that that is not to be used against him unless and until he is connected up with a conspiracy.

The Court: The jury will be so advised, and if necessary I will give an instruction at the close of the case on that matter and related matters.

Mr. Malloy: May I inquire along the same lines with respect to John Hood -- very briefly.

The Court: Yes, sir.

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Cross-examination by Mr. Malloy

1038] Q. Mr. Carter, I believe you testified that John Hood offered you some money? A. Yes, sir.

Q. Did you report that to the Chief? A. Yes, sir.

Q. Did the Chief tell you to set him up and catch him in a bribery and send him to the penitentiary? A. No, sir.

Q. He didn't -- just let that drop? A. We were trying to get Tex in it.

Q. You were not trying to get John Hood? A. No, sir.

Q. Just going to let him go? A. No, we were going to get him later on.

Q. Later on; did you ever get him? A. No, sir.

Q. This was a conversation -- when was it with John Hood? A. It was in June the best that I can remember.

Q. June of what? A. Of '55.

Q. And where did that take place? A. On the west side of the courthouse.

Q. Who was present besides you and John Hood? A. Just John Hood and I.

Q. And what time of day was it? A. It was about 7 or 1039] 7:30 that evening.

Q. How did you drive to the courthouse that day -- what route did you take? A. John Hood picked me up at 4th and Cincinnati.

Q. What route did you take, what streets did you go down? A. Straight west on 4th Street here to Elwood and then straight over.

Q. Then right up there? A. Yes, sir.

Mr. Malloy: If Your Honor please, I move that this testimony of this witness be stricken until it is properly substantiated with this alleged conspirator.

The Court: I will give the jury appropriate instructions at the proper time.

Redirect Examination by Mr. Crawford

Q. Mr. Carter, they asked you about why you didn't get a warrant for Bill Edwards; do you know whether or not Bill Edwards kept his whisky in his house? A. No, sir, I don't

know for sure.

Q. Did you ever try to arrest Bill Edwards? A. Yes, sir.

Q. Just tell the jury some of the things you did trying to arrest Bill Edwards. A. Bill Edwards between five minutes 'til 5 and five minutes after 5 every morning was getting 1040] up to go toward his plant; we chased him all over that eastern part of town. Finally we wasn't tailing him anywhere at all to catch him, so we hired a pilot in an airplane. I got up in the airplane and my partner, Charley Bruner, and Marvin Hicks, was on the ground; we had a walkie-talkie radio. We followed him from 5 o'clock one morning until 7:20 that same morning, trying to tail that man to his plant, but we didn't make it.

Q. Now when he traveled in his automobile at that early hour did he travel at high rates of speed? A. Yes, sir.

The Court: I think that's sufficient on that subject.

Mr. Crawford: That's all I have, Your Honor.

CHARLES BRUNER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Charles Bruner.

Q. You are a police officer with the City of Tulsa Police Department, is that correct? A. That's true.

Q. How long have you been so employed? A. Four years 1041] this month.

Q. You were at one time assigned to the raiding squad, were you not? A. Yes, sir.

Q. Which is a part of the vice squad? A. Yes, sir.

Q. For how long a period of time were you assigned to the raiding squad? A. About nine months.

Q. And when were you transferred from the raiding squad? A. In May.

Q. May of '56? A. Yes, sir.

Q. And was Dick Carter on there at the same time? A. Yes, sir.

Q. Do you recall the date that you were transferred? A. It was either on the 9th or 10th I believe now.

Q. Of May? A. Yes, sir.

Q. And was Dick Carter transferred soon thereafter? A. Yes, sir.

Q. Now, Mr. Bruner, do you know the defendant Johnnie Cole? A. Yes, sir.

Q. Did you have an occasion to see the defendant Johnnie 1042] Cole at Cain's Dancing Acadmey Christmas night 1956?

A. Yes, sir.

Q. And why were you there at that time? A. Officer O'Neil, Bill O'Neil and I went in to check the academy, or the dance hall.

Q. You were on duty at that time? A. Yes, sir.

Q. You did see the defendant Johnnie Cole at that time, is that correct? A. Yes, sir.

Q. Was he in uniform or out of uniform? A. He was out of uniform.

Q. And did you see him talking to anybody? A. Yes, sir.

Q. And did you see him talking to Chauncy Jones? A. Yes, sir.

Q. And do you know from your experience on the vice squad whether or not Chauncy Jones is engaged in the bootlegging business? A. Yes, sir, he is.

Q. And for how long did they talk? A. Oh, about -- I would say about five minutes.

Q. And did you see anything pass between them? A. Yes, sir.

Q. And what passed between them? A. I saw Chauncy Jones 1043] give John Cole some money.

Q. Do you know how much money he gave him? A. No, sir.

Q. Was it more than one bill? A. Yes, sir, it looked like more than one bill.

Q. Could you tell the denominations? A. No, sir, I couldn't.

Q. How far away from Chauncy Jones were you at the time of this transaction? A. About twenty or twenty-five feet.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Ungerman

Q. Bruner, how large a place is the Cain's Dancing

Academy? A. The whole building?

Q. That's right. A. Oh, I would say about probably two hundred feet long.

Q. Two hundred feet long? A. Yes, sir.

Q. And this was Christmas night? A. Yes, sir.

Q. Was there a dance there that night? A. Yes, sir.

1044] Q. Who was playing that -- A. Johnnie Lee Wills, I imagine; I don't know for sure.

Q. You don't know for sure? A. No, sir.

Q. How many people were in there? A. Well, there were several people there.

Q. Well, about how many? A. Probably one hundred to one hundred fifty.

Q. Where were you standing yourself? A. Next to the snack bar, where they serve coffee and food.

Q. Where is the snack bar with reference to the entrance? A. It is on the northwest corner.

Q. Northwest corner of the building? A. Yes, sir.

Q. And the entrance is on the west side of the building isn't it? A. Yes, sir.

Q. Now, where was Johnnie Cole standing? A. He was standing just south of the snack bar approximately -- oh, not too far from the entrance.

Q. Not too far from the entrance? A. No, sir.

Q. How many feet was Johnnie Cole from you? A. Oh, about twenty or twenty-five feet.

Q. On this particular night was Cain's Dancing Academy

1045] lit up brightly? A. Yes, sir, there was quite a few lights in it.

Q. Keep it well lighted when there is dancing going on? A. That I do not know.

Q. Well, you were there that night weren't you? A. That's right.

Q. Was it well lighted? A. It was at that time; the dance was just over.

Q. Dance was over? A. Yes, sir.

Q. What time was it? A. Oh, somewhere around midnight or 1 o'clock.

Q. Do you know what officer Cole was doing there? A. I suppose he was working there.

Q. Helping maintain order? A. Yes, sir.

Q. Now what direction were you facing at the time of

this alleged episode that you are relating here? A. I was facing the east.

Q. And what direction was Johnnie Cole facing? A. He was facing the west.

Q. In other words, you were looking at Johnnie Cole? A. Yes, sir.

Q. In other words, you are looking to the east and Johnnie Cole would be looking -- like this juror is toward me?

A. Well, both of us wasn't looking the same direction
1046| all the time; we turned our heads to the right and to the left.

Q. In other words, then, you didn't have your eyes on Johnnie Cole all the time? A. No, sir.

Q. I see. Now where did this fellow Jones come from? A. He and some lady friend or some lady walked up.

Q. Walked up to whom? A. John Cole.

Q. Well, from what direction? A. They came by us, from the north -- northwest, and started towards the entrance.

Q. In other words do you say that Jones and his lady friend walked between you and officer Cole? A. Yes, sir.

Q. And what size person is Chauncy Jones? A. Well, he is about five-six or seven, probably weighs around one hundred and sixty-five pounds.

Q. What size was the lady friend that he had that night? A Well, she was about the same height he was.

Q. Same height? A. No, approximately the same height, maybe a couple of inches difference in their height.

Q. How about the weight? A. Well, she would probably weigh around one hundred thirty or thirty-five.

Q. They walked between you and officer Cole? A. Yes,
1047| sir.

Q. And you were twenty-five feet away? A. Yes, sir -- twenty or twenty-five feet, yes, sir.

Q. Uh huh. Now what happened? A. Well, as we were standing there, officer Neil and I were sharing a cup of coffee, and John was standing down below us there, and Chauncy and his lady friend walked between us and walked down there and was talking to him, and we went ahead with our coffee, and Chauncy took some money out of his hand and offered it to Johnnie.

Q. Did you hear him offer it to him? A. No, I saw him make the motion with it.

Q. What kind of a motion did you see him make? A. He took the money in his hand, you know, and held it over toward

John, like this (indicating).

Q. What kind of money? A. Well, it was greenbacks -- I don't know.

Q. Are you sure it was money? A. It looked like money to me.

Q. Looked like money to you? A. Yes, sir.

1048] Q. Could it have been stage money? A. Well, it is possible it could have been.

Q. You don't swear under oath to this jury this afternoon that you saw Chauncy Jones pass any money to Johnnie Cole that night do you, Mr. Bruner? A. No, I -- what I thought was money.

Q. You don't tell this jury under oath that you saw Chauncy Jones pass any money to officer Johnnie Cole that night do you? A. No, sir, it could have been stage money.

Mr. Ungerman: That's all.

Mr. Malloy: Just a minute.

Mr. Ungerman: That's all, sir.

Mr. Crawford: That's all, Mr. Bruner.

WILLIAM PATRICK O'NEAL, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. William --

Mr. Ungerman: Excuse me, sir; may we request the District Attorney's office -- we would possibly like to use officer Bruner for further cross-examination Monday; it is getting late tonight -- preferably Monday.

Mr. Crawford: I will be happy to call him back next,
1049] if you like.

Mr. Ungerman: Thank you.

Q. (By Mr. Crawford) State your name, please. A. William Patrick O'Neal.

Q. Mr. O'Neal, you are a police officer of the City of Tulsa, Police Department, is that correct? A. Yes, sir.

Q. How long have you been a police officer? A. Approximately six and a half years.

Q. Do you know Charles Bruner? A. Yes, sir.

Q. Do you know the defendant Johnnie Cole? A. Yes, sir.

Q. Did you have occasion to see Johnnie Cole at Cain's Dancing Academy on Christmas night 1956? A. Yes, sir.

Q. And did you see him in company with anyone? A. Yes, sir.

Q. Who was he in company with? A. An individual by the name of Chauncy Jones.

Q. Did they engage in conversation? A. They were conversing, yes, sir.

Q. For any period of time over and above two or three minutes? A. I don't know the definite length of time.

Q. But they did have a conversation? A. Yes, sir.

1050] Q. Now, Mr. O'Neal --

The Court: Are you hearing the witness without any difficulty?

A Juror: It could be louder.

The Court: Raise your voice a bit, speak a little louder if you will.

Q. (By Mr. Crawford) Did you see anything pass between Johnnie Cole and Chauncy Jones? A. Well, I saw a transaction but I definitely didn't know what was passing.

Q. Will you tell the jury what transaction you saw? A. Well, officer Cole was working the dance in uniform, and officer Bruner and I were having a cup of coffee at the confectionery stand, and we saw Chauncy Jones and officer Cole talking there and laughing, and it seemed that Chauncy Jones was feeling pretty good -- I wouldn't say he was tight but he had been drinking a bit. I saw him reach his hand in his pocket and pull out something and hand it to John Cole.

Q. Did that something that he passed appear to be money?

Mr. Ungerman: That's objected to as calling for a

conclusion.

Q. (By Mr. Crawford) Well, what did it appear to be?

The Court: You could ask him to describe, give the
1051] appearance of what he saw pass.

Q. (By Mr. Crawford) Will you describe the appearance of what you saw pass from Chauncy Jones to Johnnie Cole.
A. Well, Mr. Crawford, at the time of the transaction officer Bruner said, did you see what I saw?

Mr. Ungerman: We object to what officer Bruner said to him.

The Court: Yes, that's improper; could not be considered by the jury; just give a description of --

A. I couldn't describe it, sir.

The Court: All right.

A. I mean I have no idea what it was.

Mr. Crawford: All right, you may inquire.

Mr. Ungerman: No questions.

Mr. Crawford: That's all, Mr. O'Neal.

Mr. Ungerman: Wait, just one question, -- put it over him so we can hear.

Cross-examination by Mr. Ungerman

Q. Do I understand your testimony, O'Neal, that officer Cole was in uniform? A. Yes, sir.
Q. You are sure about that? A. Yes, sir.
Q. Even though Charles Bruner has testified he wasn't?

1052] Mr. Malloy: Billie, let me ask you just one question.

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Cross-examination by Mr. Malloy

Q. Have you had any difficulty with Bruner over this particular transaction, Bruner trying to pick a fight with you and have you change your testimony? A. No, sir, we have had words -- but not a threatened fight or anything like that.

Q. In other words, he was just trying to get you to change your testimony, wasn't he? A. No, sir.

Mr. Malloy: That's all.

Mr. Crawford: That's all -- let me ask him one more question -- that left kind of a strange atmosphere.

Redirect Examination by Mr. Crawford

Q. You and Mr. Bruner merely discussed what you both recalled about the transaction, isn't that it? A. Well, it was -- the idea was that he thought it was money and I didn't know whether it was or not -- of course -- the principle of the thing, it was Christmas Eve, and I didn't see -- that's the best I can explain it.

Q. I mean, you both recalled to each other what you remembered? A. Yes, sir.

1053] Mr. Crawford: That's all.

Cross-examination by Mr. Ungerman

Q. Did you have words over your differences of opinion? A. Yes, we had words.

Mr. Ungerman: That's all.

ARCHIE MOORE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Archie Moore? A. Yes, sir.

Q. And you have previously been sworn and testified as a witness in this case? A. Yes, sir.

Q Mr. Moore, do you know the defendant Tommie Peterson? A. Yes, sir.

Q. Did you ever buy liquor from the defendant Tommie Peterson?

Mr. Hickman: We object to that as incompetent, irrelevant and immaterial.

The Court: Overruled

Q. (By Mr. Crawford) You may answer the question.
1054] A. Yes, sir.

Q. And were you -- do you recall the date that you bought that liquor from Tommie Peterson? A. No, sir.

Q. Do you recall the month -- what year was it, Mr. Moore? A. I would have to say that I believe about '53.

Q. 1953? A. Somewheres in that neighborhood, sir.

Q. And was it during the summer, fall, winter, or spring, do you recall that? A. No, sir, I don't, not right off-hand, I don't.

Q. All right, and how much did you buy from Mr. Peterson at that time?

Mr. Malloy: If Your Honor please, I move this testimony be stricken; he can't pinpoint this transaction down within a whole twelve-month period; he doesn't even know whether it was winter, summer, spring, or any time of the year; just barely could make it into a year, and he isn't even sure of that.

Mr. Crawford: I would like to --

The Court: Well, I will overrule the objection.

Q. (By Mr. Crawford) How much liquor did you buy from him at that time, Mr Moore? A. One lug, of half pints.

Q. And how many bottles of half pints are there in a lug? A. Eight.

Q. And where did this transaction take place?
1055] A. Between Cheyenne and Denver, First and Second, in an alley.

Q. Was there anybody else present at the time? A. Paul Smith.

Q. And do you know Paul Smith as a police officer? A. Yes, sir.

Q. How much did you pay Tommie Peterson for that lug of half pints. A. $8.

Mr. Crawford: You may inquire

Cross-examination by Mr. Hickman

Q. What kind of whisky was it? A. I believe it was gin, sir.

Q. Gin? A. Yes, sir.

Q. Are you sure of it? A. Not positive.

Q. Well, how did it come about -- how did the transaction happen? A. They -- he and Paul Smith pulled up in the alley in a police car and called me from where I was selling whisky at 124 South Cheyenne and said they had a lug of whisky that they would like to sell me.

Q. Who said it? A. Tommie Peterson.

1056] Q. Where were you at the time? A. Standing beside the police car.

Q. All right, what was next said? A. I said I would take it.

Q. When was the price discussed? A. I don't remember if it was before or afterwards.

Q. Do you mean before or after you bought it? A. Before or after I said that I would take it.

Q. Well, how did you take it then? A. I just taken it and paid them for it.

Q. Where was it when you took it? A. It was in the front seat of the police car, and they handed it to me through the window of the police car.

Q. They did -- who did -- which one? A. I believe that I was discussing with Tommie.

Q. Yes, sir, this happened five years ago -- four years ago? A. Four years, yes, sir.

Q. When did you mention this to any one for the first time? A. I don't believe that I have mentioned it, sir, ocher than talking through the grand jury.

Q. That is the first time you ever mentioned it?

1057] A. The best I remember, yes.
Q. What was it, whisky or gin?

The Court: I believe he has answered that question.

Q. (By Mr. Hickman) Do you know?

The Court: He said he didn't know; he believed it to be --

Q. (By Mr. Hickman) All right, what did you do with it? A. I taken it for resale.
Q. Did you sell it? A. Yes, sir.
Q. How much did you sell it for? A. I don't remember.
Q. Did you make a profit on it? A. Yes, sir.
Q. You were a retail liquor dealer at the time? A. Yes, sir.
Q. And have a stamp? A. Yes, sir.
Q. For the premises that you sold it from? A. Yes, sir.

Mr. Hickman: That's all.

Mr. Ungerman: Just one question.

Cross-examination by Mr. Ungerman

Q. Did you ever buy any liquor from officer Charles Bruner? A. No, sir.
Q. Are you sure? A. Yes, sir.
1058] Q. Ever buy any from officer Carter? A. No, sir.
Q. Sure about that? A. Yes, sir.

The Court: Do you have any --

Mr. Ungerman: We have some information to that effect.

The Court: Do you have any evidence that you expect to present, do you expect to present any evidence --

Mr. Ungerman: Going to try to, Your Honor.

The Court: Well, do you have any reason to believe --

Mr. Ungerman: Yes, sir, the information is given us, that is correct.

The Court: It is a fair question if you have, but if you haven't, it is certainly improper for that type of question to be asked.

Mr. Ungerman: Yes, sir, I appreciate that.

The Court: That's all.

* * * * *

1059] PAUL SMITH, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Paul Smith? A. Yes, sir.
Q. You are a police officer with the City of Tulsa Police Department, is that correct? A. Yes, sir.
Q. How long have you been so employed, Mr. Smith? A. I have been with the Police Department four years and three months and just a few days.
Q. Do you know the defendant Johnnie Cole? A. Yes, sir.
Q. Do you know Archie Moore, who just testified preceding you? A. I know Archie Moore, yes, sir.
Q. Did you ever work in a police squad car with Tommie Peterson? A. Yes, sir.
Q. Do you recall what period of time, Mr. Smith, that you worked with Mr. Peterson? A. 1954 -- In 1954 I worked with Mr. Peterson, I recall.
Q. And do you recall, Mr. Peterson ever taking any whisky to Archie Moore? A. Yes, sir.
Q. Would you explain to the jury the circumstances re-
1060] lating to that transaction? A. Yes, sir. Tommie and I were passing the Police Station on the west side of the station, which is Elgin; and the raiding squad car has just pulled up and double parked alongside of the west door; and

as we passed it, Tommie stopped just in front of the car and walked back and brought back a lug of whisky that he had taken from the car and put into our squad car.

Q. And where did you go from there? A. We drove to Second and Cheyenne, in the alley between Cheyenne and Denver.

Q. Who did you see there? A. We saw Archie Moore.

Q. And did a conversation take place there between Peterson and Archie Moore? A. Yes, sir.

Q. How long had you been on the police force at that time? A. I came to work in January of '53 and at that time it seems to me it was September or October of 1954.

Q. All right. And what was the conversation that took place between Archie Moore and Tommie Peterson, at that time? A. Tommie asked Archie what a lug of whisky was worth, and checked the brand on it; and I think Archie said, $11; I am not sure.

1061] Q. And was that whisky delivered to Archie? A. Yes, sir, Tommie handed the lug out of the car to him and he handed him the money.

Q. And what happened to the money after Tommie got it, Paul? A. We started down the alley toward First Street, and Tommie handed me $5 of it, and took the six, I believe it was, and stuck it in his pocket.

Mr. Crawford: You may inquire.

Mr. Hickman: No questions.

Mr. Crawford: That's all.

* * * * *

1062] The Court: Are you ready to proceed?

Mr. Malloy: May we approach the Bench a moment?

The Court: Just a moment before you approach the Bench. There are two requests that I want to make before we start to resume the trial of this case this morning. The first request I want to make is a request to the jury.

The other will be directed to counsel in the case.

I have reached the conclusion that it is inadvisable for the jury to read the newspaper until the trial of this case has been concluded. And in making that request to you -- and I do request you not to read any newspaper accounts with reference to any matter pertaining to the case on trial -- I know that you are aware of the fact that this case is to be decided upon the evidence presented in this courtroom -- it will be decided upon the evidence that you hear from the witness stand; I am confident that you will be guided by the instructions given to you by the Court when all of the evidence is in, in determining the legal propositions to be applied by you in arriving at your verdict. But you might unknowingly and unwittingly be influenced by some of the things that you read in the newspapers which the jury should not consider and may not properly consider in arriving at your verdict in the case. So, regretfully, I request that
1063] you refrain from reading any further newspaper stories or newspaper accounts pertaining to the case.

Now the second request I want to make, of counsel, I hope that there will not be any recurrence of the incident that occurred Friday and the "hassel" with reference to the witness Red Carter. Two things I want to point out in that connection. In the first place the witness had been on the witness stand, he had been cross-examined, and been excused -- not excused from further attendance in the case but had been excused from the courtroom and further examination. Counsel for the defendants desired access to the testimony that had been given by that witness before the grand jury in 1952. That evidence could be obtained only in the event the Court entered an order in the exercise of discretion making that evidence available to counsel for the defendants. The order was entered in open court and the reporter was directed upon request to transcribe the testimony and furnish a copy of it to counsel for the defendants.

Secondly, the witness could be brought back to the witness stand for further cross-examination only upon an order made by the Court. The question of having the witness in attendance on Friday afternoon, for further cross-examination, was called to the Court's attention on Friday morning. It was also called to the Court's attention that the United
1064] States District Attorney had excused the witness for the

time being because of his physical condition. The Court directed the Assistant United States District Attorney to notify the witness to be present Friday afternoon for the purpose of further cross-examination if his physical condition would permit; otherwise that he be present Monday morning.

Subsequently a subpoena was caused to be issued by the defendants and served on the witness. Under the circumstances I think that was not necessary -- in fact, it was wholly unnecessary, and perhaps under the circumstances somewhat improper because the witness had been directed through the order made to the District Attorney to come back for cross-examination.

Secondly, there was some question that arose about interviewing the witness. And that is the point that I want to make absolutely clear and that the lawyers on both sides have a perfect right to interview any witness or any prospective witness. Witnesses called by the Government are not Government witnesses. The witnesses called by the defendants will not be defendants' witnesses. Witnesses who are called and sworn to testify in the case are obliged to tell the facts. And they are not witnesses who represent either side of the case. A witness has the right to refuse to talk to counsel if he desires to do so. The decision as to whether a witness will be interviewed by counsel in the case rests with the witness. And nobody else. But certainly the
1065] lawyers on both sides are within their rights in making a proper effort to interview any witness or any prospective witness in the case. And I hope there won't be any further misunderstanding about that.

Now then you may approach the Bench.

(Thereupon Mr. Malloy, Mr. Gotcher, Mr. Rucker, Mr. Ungerman, Mr. Shortridge, Mr. Page, Mr. Smith, and Mr. Crawford conferred at the Bench with the Court.)

The Court: It has been suggested to me, Mrs. Davis and Gentlemen, that I might very well advise you further that you should disregard and not consider any newspaper stories that you have read up to this time. Of course it goes without saying that the Court earnestly desires that you not be influenced by anything that you have heard and read prior to

this time or anything that you might hear or read hereafter. The case must be decided solely upon the evidence introduced from the witness stand.

Mr. Malloy: If Your Honor please, I have talked with Mr. Hood in connection with Government's Exhibit 8. We seem to have a little difficulty -- or rather, we are not sure whether that has ever actually been admitted. You will remember, that is not the official record covering '52 to '57 on the wholesale and retail stamps which was testified to by Mr. Heinen, but from the official records of Government's Exhibit A was the one Mr. Carroll testified to with res-
1066] pect to the complete absence of any 1949 record, and in his opinion on cross-examination it wasn't an official nor a complete list. You reserved your -- my recollection was, your ruling on it. Mr. Hood didn't know for sure but he thought it had been admitted.

The Court: That covers the years '48 through '52, except for the fiscal year '49 which is not included?

Mr. Malloy: That's right, sir; and it is admittedly not the official list.

Mr. Crawford: But one made in the due course of business.

The Court: Yes, it will be admitted but only with respect to information disclosed by the exhibit for the period commencing -- was it May 5, 1951? -- I had a notation of it, and it got away from me here.

Mr. Crawford: May 13, Your Honor, until April 5 -- May 13, 1949, to April 5, 1951.

The Court: No, it will be admissible.

Mr. Malloy: That is the transportation feature, Your Honor gave us an exception to that admission.

The Court: You may have it.

Mr. Crawford: If the Court please, we would like to offer

into evidence Government's Exhibit No. 9, which is a transcript of testimony of John Bill Edwards, before Judge Taylor on August 28, 1953; it was marked for identifi-
1067] cation and identified and I recall that I did not actually offer it into evidence. I would like to offer it at this time.

Mr. Malloy: If Your Honor please, I believe we wanted -- I don't think it is admissible; we are objecting to the admission of it. It was used -- the transcript, for purposes of cross-examination.

The Court: If you care to object to it --

Mr. Malloy: We are objecting to it.

The Court: I will sustain the objection.

Mr. Crawford: I would like to offer at this time Government's Exhibit No. 10, which is the transfer signed by the defendant Livingston to Richard Carter, which he testified to and which was marked for identification.

Mr. Malloy: Object to it as incompetent, irrelevant and immaterial.

The Court: Overruled; it will be admitted.

Mr. Malloy: Exception.

The Court: Overruled; it will be admitted.

Mr. Malloy: Exception.

The Court: Call your next witness.

1068] J. HOWARD EDMONDSON, recalled as a witness on behalf of the Government, testified:

Jay L. Jones et al. vs. United States of America

Direct Examination by Mr. Crawford

Q. Mr. Edmondson, other than with reference to Ben Bly, did Nolen Bulloch ever advise you that any other bootlegger had not contributed to your opponent's campaign?

Mr. Rucker: Objected to, if Your Honor please, as incompetent, not within this alleged conspiracy.

The Court: Overruled.

Mr. Rucker: And irrelevant and immaterial.

The Court: Objection overruled; you may answer.

A. Would you repeat that, Hayden; I didn't understand -- did he advise me --

(Thereupon the Reporter read the question.)

A. No.

Q. (By Mr. Crawford) Do you recall, Mr. Edmondson, whether Nolen Bulloch did anything when he offered you the $100 you previously have testified to?

Mr. Rucker: Objected to as recapitulation and repetition, if Your Honor please.

The Court: Overruled.

A. Yes.

Q. (By Mr. Crawford) And what did he do? A. Well, he -- as I stated, he smiled when he made this offer to me in such a way that I drew --

1069]

Mr. Rucker: Object to drawing a conclusion.

The Court: Just state what he did -- not any conclusions you may have drawn as a result of it.

Mr. Malloy: This witness ought to understand.

A. Do you want me to repeat what he said?

Q. (By Mr. Crawford) No, I believe that has been covered by your previous testimony; you stated that he smiled, is that right? A. That's correct, he smiled and as to what he did, that is just about as much as I could say I guess.

Q. All right now, you recall the padlocking action against Bill's Truck Stop, do you not? A. Yes, sir.

Q. And at that time you were an assistant county attorney in the office you now hold, is that correct? A. Bob Wheeler was the County Attorney, that's correct.

Q. And did you participate in the activity out there on behalf of the County Attorney's office? A. I went out there with the -- when we got the Court order padlocking it I went out there with I believe the two investigators from the office and also Bill Fields who was Sheriff, and possibly some other deputies from his office, I went out to Bill's Truck Stop with them and posted that order.

Q. And do you recall a telephone call that Cleo Epps made
1070] from that establishment on the night you were out there?

A. Yes.

Q. And do you recall who she called? A. She called O.C. Lassiter.

Q. Now, Mr. Edmondson, do you recall a newspaper article which appeared in the Tulsa Tribune just prior to that action out there? A. Yes.

Q. And did that newspaper article to your knowledge have anything to do with the action taken by the County Attorney's office? A. Yes, I think it did; the newspaper article was to the effect that there was wide-open whisky selling out there at Bill's Truck Stop, and as a result of that, investigation was instituted and padlock proceedings were brought to close it.

Q Do you recall whether the newspaper article referred to any gambling activities out there? A. No, I don't; I think that it was about -- that article was about more than one place. I am not sure, Hayden; there were two or three articles along about that time The one that referred to Bill's Truck Stop as I recall it emphasized whisky; it could have referred to gambling too; I don't remember.

Mr. Crawford: You may inquire.

Jay L. Jones et al.vs. United States of America

Cross-examination by Mr. Hickman

1071] Q. Mr. Edmondson, was that proceeding to padlock Bill's Truck Stop instituted upon charges that your investigation revealed of the carrying on of a liquor business there by Cleo Epps? A. That's correct.

Q. Was she the defendant against whom the padlock proceedings were directed? A. She was one of them.

Q. Who was the other one? A. Bill Statham, S-t-a-t-h-a-m, I believe.

Q. Who was in charge of the place when you accompanied by the investigators and the sheriff went out there to follow the order of the District Court of Tulsa County and close the place? A. Cleo wasn't there when we got there, but she came out there while we were there; and she was in charge of it.

Mr. Hickman: That's all.

Cross-examination by Mr. Rucker

Q. Mr. Edmondson, don't you know as a fact that investigators from the County Attorney's office had been with Mr. Bulloch and unearthing whisky activities at Bill's Truck Stop prior to that time? A. I know that Mr. Lang was out there with James Rogers, of the Alcohol Tax Unit, and Nolen Bulloch.

Q. In other words, the three of them were out there to 1072] find out if they were selling whisky? A. I don't know whether they went out there to find out whether they were or not, but --

Q. But to make an investigation? A. That's right. I think there was somebody else with them.

Q. Sir? A. I think there was somebody else with them, too.

Q. Mr. Edmondson, in view of what you have said about the hundreds and hundreds of conversations that you have had with Nolen Bulloch on both politics and cases pending in your office, did these conversations that you had, whenever you did have them, -- were they of any consequence or just another one of the hundreds of conversations? A. I don't know how you would measure consequence, Truman.

Q. Well, were they of any consequence to you? A. Well,

I don't remember every word that was said in the conversation, if that is what you are driving at.

Q. You do know that it is a fact that Nolen Bulloch has never interceded on behalf of any bootlegger as far as you are concerned? A. That's correct.

Mr. Rucker: That's all.

The Court: That's all.

1073] ROBERT SCOTT, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Robert Scott? A. Yes, sir.

Q. Mr. Scott, you are serving as an assistant county attorney for the County of Tulsa, is that correct? A. That's correct.

Q. And how long have you occupied that position, Mr. Scott? A. It will be three years the 1st of May.

Q. During that time have you had occasion to know the defendant Nolen Bulloch? A. Yes, sir.

Q. And have you carried on conversations with him throughout that period of time? A. Yes, I have, yes.

Q. Now, do you recall a charge that was filed against John Bill Edwards, back in the early part of 1955? A. Yes, sir.

Q. And was that a liquor possession charge? A. Yes, sir.

Q. Mr. Scott, from the testimony in that case was it determined that there had been a fictitious registration of an automobile title by Bill Edwards? A. Yes, sir, he
1074] testified on motion to suppress only that the automobile belonged to him. We had ascertained from the registration slip that the officers had taken from the car at the time they executed the search warrant that it was registered to a Mrs. Collins.

Q. Now, Mr. Scott, was any action ever filed with regard to that fictitious registration? A. No, sir.

Q. And if any action had been filed it would have been a misdemeanor, would it not? A. Yes, sir.

Q. Subsequent to that time, Mr. Scott, during the summer of 1955, did you find a case of whisky in your garage one morning? A. Yes, sir.

Q. Did you know how that whisky got there? A. No, sir.

Q. Was it Scotch whisky or some other type? A. It was Scotch whisky.

Mr. Crawford: That's all.

Cross-examination by Mr. Rucker

Q. Mr. Scott, when you were appointed assistant county attorney -- when were you appointed? A. It was effective the 1st of May; I don't recall what day it was done.

1075] Q. What year? A. 1954.

Q. Was Nolen Bulloch on the courthouse beat at that time or was another Tribune reporter or so? A. There was another Tribune reporter. I didn't know who Nolen Bulloch was for several months after I had been there -- I didn't even know him to see him until he made several remarks in his paper about me. I made a point to find out who this Nolen Bulloch was so I would know him if I ever saw him again.

Q. All right, Mr. Scott, did Nolen Bulloch -- has he ever at any time ever interceded to get you to help out any bootlegger or any other criminal? A. No, sir.

Mr. Rucker: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Scott, has Nolen Bulloch during the time you have been assistant county attorney ever been assigned as the courthouse reporter for the Tribune?

Mr. Malloy: I object to that as calling for a conclusion.

A. I --

1076] Mr. Malloy: Wait just a minute, Scott; he wouldn't know.

The Court: Sustained.

Q. (By Mr. Crawford) Well, have there been other reporters from the Tribune covering your office? A. Yes, sir.

Mr. Crawford: That's all.

A. I would like if I may --

Cross-examination by Mr. Malloy

Q. Do you know by any chance who put that whisky out there? A. No, sir. I have from my files some notes on it that I can pretty well reconstruct the time, if it is important.

Q. All right, what was the time that this case that you are talking about where the motion to suppress -- first, let me go back a minute. You filed a charge against Bill Edwards didn't you? A. Yes, I did; I filed two charges against Bill Edwards.

Q. You filed a charge in which you testify a motion to suppress was sustained, is that correct? A. That's correct.

Q. Now, the Judge of the Court was the one that sustained that motion, wasn't he? A. Yes, sir.

Q. And then it was at that motion to suppress at which 1077] for the first time it was developed, or you heard that there was testimony at that motion by Edwards as to a fictitious title, is that what it was? A. That's correct.

Q. And when was that, Mr. Scott, that motion to -- A. The testimony was taken on that motion on April 2nd, 1955.

Q. April 2nd, 1955. A. Yes, sir. The motion was sustained by Judge W. Lee Johnson; this was a felony case incidentally -- on May 17, 1955. Now sometime in June, I'm not exactly sure about my dates, but I took a Navy cruise and I was gone two weeks, and the reason that I am sure about that is that -- also that it was in June is because I called my oldest girl from Virginia Beach and I left my wife home with a little baby and she hadn't gotten over the fact of me being at Virginia Beach and her at home with the kids. And during that period of time -- it was after that to the best of my recollection it was after that that I found this case of whisky in the garage.

Q. What have you done with the whisky, by the way? A. Well, I turned it over to the sheriff's office.

Q. And got a receipt for it? A. Yes, sir.

Q. Let me ask you one further question, Scott; subsequent
1078] to the filing of the particular case and the motion to
suppress, have you since that time filed any cases against
Bill Edwards? A. Yes, sir.
Q. And was that a felony you filed against him? A. Yes,
sir.

Mr. Malloy: That's all.

Mr. Hickman: Let me ask you one question.

Cross-examination by Mr. Hickman

Q. What is the nature of this alleged offense, of having a license tag for an automobile in a fictitious name; you said it was a misdemeanor. A. Yes, sir.
Q. What sort of a misdemeanor is it? A. It carries a fine from ten to one hundred dollars.
Q. That is just about the cost of a case of Scotch, isn't it? A. I don't know, Mr. Hickman, about that market.

Mr. Page: I would like to ask one question.

Cross-examination by Mr. Page

Q. Bob, wasn't there a misdemeanor filed? A. Well, the reason that it wasn't is because we obtained this information from the registration taken from the automobile in
connection with the search. I had already lost two
1079] cases, one of which was -- I tried to forfeit a 1955
Mercury Monterrey. I lost that case on that same search warrant and I lost the second offense felony whisky case on that same one, and I did toy with the idea of wooling him around a bit, but I didn't do it.
Q. That case has been bound by the law in the other two cases?

The Court: You didn't want to lose any more cases on the same point?

A. Yes, sir.

The Court: I believe that's all.

Mr. Crawford: May I re-inquire on one or two points?

Redirect Examination by Mr. Crawford

Q. On this other charge that you filed against Edwards, Mr. Scott, was he convicted of that charge? A. You mean the one this year?
Q. Yes.

The Court: I think we have gone far enough on these collateral issues; you need not answer that question. That's all.

* * * * *

1080] HERBERT HUNTER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Herbert Hunter? A. Yes, sir.
Q. Mr. Hunter, you are a police officer of the City of Tulsa Police Department, is that correct? A. Yes, sir.
Q. How long have you been a police officer with the City of Tulsa? A. About two and a half years.
Q. You were assigned sometime in November 1954, is that correct? A. Yes, sir.
Q. Now, Mr. Stephens, do you know the defendant Theopolis Scoggins?

Mr. Hickman: This is Hunter.

Q. (By Mr. Crawford) Mr. Hunter, do you know the defendant Theopolis Scoggins? A. Yes, sir, I do.
Q. Do you know the defendant Stephens? A. Yes, sir.
Q. How long have you known Scoggins? A. I don't know the exact number of years.
Q. It has been a number of years? A. Yes.
1081] Q. Were you at one time during 1956 assigned to the raiding squad with Stephens? A. Yes, sir.

Q. Did you go on the raiding squad at the same time? A. Yes, sir.

Q. And do you recall the approximate date that the two of you were assigned to the raiding squad? A. I think it was about May 12th.

Q. May 12th 1956 -- how long did you continue on the raiding squad, to the best of your recollection, Mr. Hunter? A. Well, I was -- I was on the raiding squad to about the 16th of July, about two and a half months.

Q. Two and a half months? A. Approximately.

Q. Do you know whether or not in the previous years, Mr. Stephens had ever been assigned to the raiding squad before? A. Yes, sir, I --

Q. Had you ever been assigned to the raiding squad before? A. No, sir.

Q. Now, during the time, Mr. Hunter, that you worked with Mr. Stephens did you ever obtain a warrant yourself for a raid? A. No, sir, I didn't.

Q. Did Mr. Stephens obtain warrants for raids?

1082] A. Yes, sir.

Q. Was it he or you that decided which places would be raided? A. He did, sir.

Q. Did he ever sign a warrant in your name? A. At one time, sir.

Q. And did you object to that? A. Yes, sir.

Q. Now, Mr. Hunter, did you ever have any conversations -- well, let me put it this way, if I may: Did you ever hear any rumors with regard to whether or not there was a pay-off system in operation.

Mr. Hall: Object to that, if the Court please, as being hearsay.

Mr. Patten: Object to that, if the Court please, as being hearsay.

The Court: Sustained -- objection sustained.

Q. (By Mr. Crawford) Did you ever have any conversations with Stephens with regard to whether or not some people were being left alone over there and some weren't?

Mr. Hall: We object to that for the reason it is leading

and suggestive.

The Court: Overruled.

Mr. Hall: Exception.

A. Yes, sir.

1083] Q. (By Mr. Crawford) And what did -- what did Stephens say to you? A. Well, at first he just said -- he just kind of put it off and talked about --

Mr. Hall: I can't understand the witness.

The Court: Speak more distinctly and raise your voice so that we can hear you; I can't hear what you are saying.

Mr. Hall: If Your Honor please, we would like to have this witness fix the time and place of this alleged conversation.

The Court: We will get to that.

Mr. Hall: Please.

The Court: You may answer the question, and speak up so we can hear you.

A. Would you ask the question again, please.

(Thereupon the Reporter read the question.)

The Court: Now, you might relate a conversation that you had with Stephens.

A. Yes, sir, I had a number of conversations.

The Court: All right now, let's first fix the time in which you had the conversation -- time and place of the conversation that you are about to testify about.

A. Well, I couldn't tell you the time, sir, but the place was, we were in our patrol car.

The Court: You were in your patrol car?

1084] A. Yes, sir.

The Court: Can you give us an approximate date?

A. No, sir, I can't.

The Court: Well, what month was it?

A. Well, it would have to be during the month of May.

The Court: During the month of May?

A. Yes, sir.

The Court: You went -- you became a partner of Stephens on the vice squad on May 12, is that right?

A. Yes, sir.

The Court: And then it was just a short time after you became partners then in that activity, is that correct?

A. Yes, sir.

The Court: All right, go ahead then and tell us what the conversation was.

A. Oh, I had asked him, that I had heard some rumors about some things and I asked him about them.

The Court: What did you ask him?

A. What was the rumors that I heard?

The Court: Well, what did you tell him that you had heard?

A. Well, I told him that I had heard that they had some kind of pay-off deal that was going on on the north side of town.

The Court: All right, go right ahead.

1085] A. And he told me, he said, Well, what you don't know won't hurt you -- didn't discuss it any more.

Q. (By Mr. Crawford) Now, Mr. Hunter, you are presently assigned to the patrol division, is that correct? A. Yes, sir.

Q. And at the present time can a patrol officer raid, as they see fit? A. Yes, sir.

Q. When you came off the vice squad there in July of 1954, could patrol officers raid as they saw fit -- 1956, that is? A. No, sir.

Q. Was the raiding then left up entirely to the raiding squad? A. Yes, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Malloy

Q. Mr. Hunter, -- isn't it, sir -- Mr. Hunter? A. Yes, sir.

Q. Didn't you actually participate in a raid with Stephens against Alfonso Williams? A. Yes, sir, I did.

Q. And when was that? A. I don't know the exact date.

1086] Q. And Stephens, now, -- was he your superior -- well, he was the one that said where you were going to raid, wasn't he? A. Yes, sir.

Q. Isn't that what you told Mr. Crawford just now? A. Yes, sir, -- yes, sir.

Q. He was the one that directed the raid that was made against Alfonso Williams, which you participated in, isn't that right? A. Yes, sir.

Q. And it was a pretty successful raid, too, wasn't it? A. Yes, sir, it was.

Q. And that was in June? A. I don't know when.

Q. Well, it was between the time you were on the raiding squad, isn't that right? A. Yes, sir, -- yes, sir.

The Court: All right, that's all.

1087] PAULINE LAMBERT, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Pauline Lambert.

Q. What is your business or occupation at this time? A. I am running a rooming house.

Q. What rooming house do you have? A. I have the Ruby, that is, 326-1/2 East 1st. Then I have the Campbell, 328-1/2 East 1st, and then, that is a kind of an annex to it, is 330-1/2. Then I have 332-1/2 on next to it.

Q. Mrs. Lambert, did you at one time own the Dixie Rooms? A. Yes, sir.

Q. Was that operated at that time as a house of prostitution? A. No.

Mr. Malloy: If Your Honor please, --

A. No, that was 330-1/2 East 1st; it wasn't a house of prostitution then.

Mr. Malloy: I am going to object to any testimony on behalf of this witness relative to prostitution for the reason that under the alleged agreement which is the gist of any conspiracy, the testimony of Edwards and of Hirrlinger, if true, which we of course deny emphatically negatives any existence of an agreement relative to a conspiracy with
1088] respect to prostitution. You recall the testimony --

The Court: I overrule the objection. I recall the testimony and I disagree with your statement.

Mr. Malloy: Give us an exception, Your Honor, to all this line of testimony relative to prostitution.

The Court: The record may show that you object and objection is overruled.

Mr. Malloy: Thank you.

Q. (By Mr. Crawford) Have you operated --

The Court: I am going to reiterate the statement I believe that I have formerly made to the jury. It might be

helpful to further emphasize it.

The charge made in the indictment is that these defendants entered into an unlawful agreement of conspiracy to violate two different Federal Statutes pertaining to liquor; that is, Count 1, the statute which prohibits transportation from a wet state into a dry state; and, Count 2, the statute or statutes which require those engaged in the retail or wholesale business to pay certain special taxes. The indictment does not charge the defendants with an unlawful -- entering into an unlawful agreement to exploit prostitution or to exploit gambling. Neither does any Federal Statute, insofar as it may be pertinent to our case, deal with those subjects. So, you are to consider any evidence pertaining to either prostitution or gambling only in the event there is testimony presented in the case to connect any operations
1089] pertaining to prostitution or gambling, which may be revealed by the evidence, with the alleged unlawful agreement to violate the statutes pertaining to liquor. It must be connected up with the charge -- in this case in order to be considered.

Q. (By Mr. Crawford) Have you ever, Mrs. Lambert, ever operated any of those establishments as houses of prostitution? A. I did the -- at 326-1/2 East 1st.

Q. Now, Mrs. Lambert, do you know the defendant Tommie Peterson? A. Yes, sir.

Q. Have you had an occasion to have a conversation with him during the past year? A. No.

Q. Did you have a conversation with him early in 1956? A. No, sir.

Q. Did you ever have a conversation with him with regard to a package? A. Yes.

Q. And when did that conversation take place? A. About the first of June.

Q. Of what year? A. 1956.

Q. All right. And will you relate -- whether anybody else
1090] was there at that time besides you and Tommie Peterson.

A. No, there was no one there but Tommie and I.

Q. And where did this conversation take place? A. Well, it was right in my livingroom. I was cleaning up there. He came in, he says, Pauline, I have come after that package. I says, What package? He says, That package supposed to be left

here, you know -- I says, I don't know anything about a package; there wasn't anything such as anyone leaving a package here. I says, I don't know anything about it. I says, There hasn't anybody left anything here. I says, I didn't know anyone was supposed to leave anything here. Well, he says, that's all right; he says, I'm not going to take this heat, or take something. I said, Well, don't get me messed around here; I says, I am not involved in anything here; I says, I don't even know what you mean. He says, Well, just skip it. Forget it.

Q. Then, did he leave at that time? A. Yes, he went right on downstairs; that's all that was said by Tommie and I.

Q. Did you then report that to an officer at the Police Department? A. I did; I called down there and I says --

Q. Now you can -- I regret you can only state -- if I am correct in this, Your Honor, whether or not you did report it; not what you said. A. I called the Police Department.

1091] Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. You started to say something that he said; did he start to say something, "Well, that's all right then, I didn't want anything to do with it anyway." A. That's right, he did, Mr. Hickman.

Q. He said something -- you started to say something about heat? A. He did.

Q. What did he say about that? A. He said, I'm not going to take this heat, or take something like that. I said, I am not trying to cause anybody any trouble, or something like that.

Q. You never paid any money to an officer? A. I never paid any money to any officer, him or anyone else.

Q. Do you know a fellow named Hirrlinger? A. No, I don't know Charley Hirrlinger.

Q. Do you know Bill Edwards? A. No, I don't know him.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

1092] Q. You haven't, Mrs. Lambert, operated a house of prostitution in some period of time, have you? A. Yes, sir, I have.

Q. When was the last time? A. 1952 was the last time, and Mr. Jones and Mr. Haus put an injunction against my place, and that's the last time I have ever operated any house of prostitution.

Q. Do you own the Browning Hotel at this time? A. I do at this time.

Q. When did you buy the Browning Hotel? A. March 6.

Q. 1957? A. Last month, yes.

Mr. Crawford: All right, that's all.

CALVIN POLK, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please? A. Calvin Polk.

Q. Where are you employed? A. Corona Hotel.

Q. How long have you been employed there? A. About
1093] one year.

Q. Do you know Mr. Polk whether or not prostitutes sometimes live in that hotel? A. Yes, sir.

Q. Do they work there in the hotel or do they go outside to do it? A. Both ways, sir.

Q. Do you know the defendant Tommie Peterson? A. Yes, sir.

Q. Does he sometimes come down to that hotel? A. Yes, sir.

Q. And does he take the girls to the station or not? A. Yes, sir.

Q. And about how often does he come down? A. Oh, sometimes once a week, and sometimes every two weeks.

Q. Has he ever called you? A. Yes, sir.

Q. Has he ever had you tell the girls to go to the station? A. He would have me -- he would tell me to have them to get ready so when he would pick them up he wouldn't have to wait.

Q. All right, do you know the defendant Cliff Wells?

* * * * *

1094] Q. (By Mr. Crawford) Have you ever obtained any money from these girls, Mr. Polk, and given it to Mr. Wells?

Mr. Smith: If the Court please, object to that as being incompetent, irrelevant and immaterial.

The Court: Overruled.

Q. (By Mr. Crawford) You may answer the question. A. Just the ones I have called for him to bail out for me.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Hickman

Q. Mr. Peterson was an officer attached to the rooming house and hotel detail, wasn't he? A. Yes, sir.

Q. And how many times did he arrest prostitutes from the 1095] hotel that you worked at? A. Oh, sometimes he would pick them up once a week and then maybe every two weeks.

Q. And they would be filed on by Mr. Peterson in the police court, isn't that correct?

Mr. Crawford: If the Court please, we object to that question unless this defendant knows of his own knowledge whether they were filed on in the police court.

Mr. Hickman: Well, you said, didn't you, that they put up bond?

The Court: Wait just a minute; objection is overruled; you may answer.

Q. (By Mr. Hickman) In other words, you would furnish money to Mr. Wells to take care of their bonds so that they could be bailed out before trial without having to remain in jail. A. I would call him and ask him to do that, sir.

Q. Call him and have him do that? A. Yes, sir.

Q. And would you learn whether or not these women were fined in Court for practicing prostitution? A. Yes, sir, they would bring back their bond receipts.

Q. That would be the release on bail? A. I imagine

so, sir.

Q. How long did you work at the Corona? A. One year.

1096] Q. What period was that? A. Oh, from about the 30th of last March up until now, I guess.

Q. From about the last of March of '56? A. Yes, sir.

Q. Up to now? A. Yes, sir.

Q. And how many prostitutes would -- on the average remain in your hotel or the hotel where you worked? A. I would keep around two or three at a time.

Q. How many would be arrested at a time? A. All of them.

Q. All of them? -- That would be once a week or every two weeks? A. Something like that.

Mr. Hickman: That's all.

Mr. Crawford: That's all.

Mr. Smith: I have a question or two

Cross-examination by Mr. Smith

Q. Mr. Polk, Mr. Weels to whom you refer is a bondsman who lives here in the City of Tulsa, is he not? A. Yes, sir.

Q. And you say that in instances when girls in your hotel

1097] were arrested you would call him and request him to make their bonds? A. Yes, sir.

Q. And he rendered that professional service at your request? A. Yes, sir.

Mr. Smith: That's all.

The Court: Are you through with the witness?

Mr. Crawford: Yes, sir, Your Honor.

The Court: All right, you may be excused.

JANICE ANCHOR GWINN, called as a witness on behalf of the Government, testified:

Jay L. Jones et al. vs. United States of America

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Janice Anchor Gwinn.

Mr. Hickman: I can't hear.

The Court: Repeat your name.

A. Janice Anchor Gwinn.

The Court: Spell the last name.

A. G-w-i-n-n.

Q. (By Mr. Crawford) Is that Mrs. Gwinn? A. Yes, it is.

Q. Do you know the defendant Tommie Peterson? A. Yes, 1098] sir, I do.

Q. Do you know the defendant Cliff Wells? A. Yes.

Q. Mrs. Gwinn, you have lived in various hotels here in the City of Tulsa, have you? A. Yes, I have.

Q. Have you lived at the Carolina Hotel? A. Yes, I have.

Q. When did you first check into the Carolina Hotel? A. In 1955.

Q. Do you know the Carolina Hotel to be a house of prostitution -- do you not? A. Yes, I do.

Q. And did you work there from that time in 1955 up until now, constantly, or off and on? A. Off and on.

Q. How long have you -- how long after you checked into the Carolina Hotel did you see the defendant Tommie Peterson? A. Well, it must have been a few days after I first checked in -- two or three days.

Q. All right. And did he take you to the police station at that time? A. I believe so.

Q. And did you see the defendant Wells there? A. No 1099] not there.

Q. Where did you see him? A. At the police station, I believe, but I don't remember seeing him the first time I was there -- I don't remember whether I saw him or not.

Q. All right, and how often did the defendant Tommie

Peterson and his partner take you down to the police station? A. Well, I only remember one time, the first time I was in Tulsa.

Q. Well, how often did they in the last times you were in Tulsa? A. Well, on the average of every ten days.

Q. And when did this every ten days commence, do you recall? A. Somewhere around the 1st of September, I believe.

Q. And how often did they take you down prior to that time? A. Well, I was here about a month before that; I first came back around the 1st of September. I was gone before that.

Q. And did you pay Wells any money when you went to the police station? A. We -- yes.

Q. And how much did you pay him each time? A. $25.

Q. Do you know what that twenty-five dollars was for? A. For my bond.

Q. Do you know how much your bond was? A. I suppose 1100] it was $250; I'm not sure.

Q. Now, Mrs. Gwinn, did you ever employ an attorney to represent you in court? A. No, I never did.

Q. Do you know an attorney by the name of Hulett? A. No, I do not.

Q. Did you ever authorize Mr. Wells to employ an attorney for you? A. No, I didn't.

Q. After you paid the $25 at the police station did you then return to the hotel? A. Yes, I did.

Q. Did you ever get a receipt from Wells for the money you paid him? A. No, I didn't.

Mr. Crawford: You may inquire.

The Court: You may cross-examine.

Cross-examination by Mr. Hickman

Q. What is your name? A. Janice Anchor Gwinn.

Q. Is it Miss or Mrs? A. Mrs.

Q. Where do you live now? A. I now live in Corpus 1101] Christi, Texas.

Q. How long have you been living there this last time? A. For -- well, since the middle or toward the last of February.

Q. When did you come here the first time? A. In --

I believe it was in March of '55.

Q. And how long did you stay? A. I stayed I believe it was until about the 1st of May.

Q. About two months or so? A. Something like that.

Q. And then you were gone you say until September? A. Yes.

Q. And you returned and became in inmate of the Carolina Hotel? A. Yes, I did.

Q. Where is that hotel located? A. At 519-1/2 East 1st.

Q. Who operates it? A. Charlotte Bradford operated it.

Q. Where did you stay the first two months last year from March until May? A. Of last year?

Q. Yes, last year. A. Well, in Corpus Christi I believe.

Q. You said you were here from March to May and then 1102] left? A. That was in '55.

Q. Oh, that was in '55. You didn't come here then from May 1955 until September of 1956? A. I believe that's right.

Q. And how long did you remain here -- until February? A. Yes.

Q. And all that time you stayed at the Carolina Rooms? A. Well, yes, I made that my home.

Q. What were you arrested for, do you know that, by Mr. Peterson; did he tell you why he was arresting you? A. Well, no, I don't recall.

Q. Did you ask him? A. I don't think so.

Q. Well, you knew that he knew that you were practicing prostitution, didn't you? A. Yes.

Q. You never gave him any money did you? A. No, I don't believe so.

Q. Do you know who his partner is Mr. Spencer? A. I don't think so.

Q. How many times have you seen Mr. Peterson? A. Well, I don't know exactly the number of times.

Q. Each time did he arrest you for practicing prostitution? A. No, not every time.

Q. How often? A. Well, on an average of every ten days. 1103] Q. Would he book you at the police station? A. Yes, I am sure.

Q. And you would stay in custody until Mr. Wells bailed you out? A. Well, no, we went to the police station and waited for Mr. Wells to arrive; we waited in the office for Mr. Wells to arrive and then --

Q. He would put up the bail? A. Yes.
Q. A bond.

Mr. Hickman: All right, that's all.

Cross-examination by Mr. Smith

Q. Now, what you paid Mr. Wells for was for making your bond, was it not, young lady? A. Yes, it was.
Q. And you also understood and knew that from the amount paid by you to him it also included the fine assessed against you by the City, didn't you? A. That's right.
Q. And Mr. Wells paid your fine to the City at your request, isn't that right? A. I don't know what Mr. Wells did with the money.
Q. In other words you would rather get someone to make
1104] your bond than to stay in jail all night? A. Well, yes.
Q. And I believe Mr. Wells made a bond for you several years ago, didn't he when you were here? A. In '55 was the first time.
Q. Under a former administration? A. Well, I don't recall; '55 was the first time I had been here in Tulsa.
Q. What date in '55? A. I don't remember the exact date.
Q. Was it early in the year or later in the year? A. Yes, it was early in the year.
Q. Early in the year.

Mr. Smith: I believe that's all.

Redirect Examination by Mr. Crawford

Q. And you were staying at the Carolina, Mrs. Gwinn, during the early part of January, 1957, were you not? A. Yes, I was.
Q. And you were taken down to the Carolina Hotel at that time about every ten days? A. We were taken to the station, yes, sir.
Q. And do you recall giving to Cliff Wells the $25 on or about January 6, 1957? A. I believe, -- I don't remember the exact date.
1105] Q. Did you ever give the $25 to anyone other than Cliff

Wells? A. No, I didn't.

Q. Did you ever know how much your fine was? A. No, only the $25 was all.

Q. Do you know whether the bond that you were required to put up was a cash bond or a property bond? A. I don't know.

Mr. Crawford: That's all.

The Court: Is that all from this witness?

Mr. Crawford: Yes, sir.

* * * * *

1106] VELMA BOOTS KING, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Velma Boots King.

Q. Is that Mrs. King or Miss King? A. Miss.

Q. Miss King, you have within the past few months been registered in the Carolina Hotel, have you not? A. Yes.

Q. Who is that hotel operated by? A. Charlotte Bradford.

Q. Do you know her quite well? A. Yes.

Q. Does she have a private living space there in the hotel? A. Yes, sir.

Q. Now, do you know the defendant Cliff Wells? A. Yes.

Q. Do you know the defendant Tommie Peterson? A. Yes.

Q. Do you see the defendant Cliff Wells down at the hotel there often? A. Yes.

Q. About how often is he down there? A. When he takes
1107] -- when he goes down and makes the girls' bonds.

Mr. Malloy: Just a minute. We object to all this testimony with respect to all of the defendants other than the defendants Peterson and Wells, as not being competent, as irrelevant, without the issues in the case.

The Court: Well, the testimony is received under the instructions and admonition heretofore given to the jury which I think need not be repeated at this moment.

Mr. Malloy: This is just for the record at this time; that is the purpose.

The Court: All right, you may proceed.

(Thereupon the Reporter read the last question and answer.)

Q. (By Mr. Crawford) Is he down there at any other time that you know of? A. Not that I -- can remember.

Q. How many times a week do you see him down there, Miss King? A. At different times, because he -- he makes bonds at different times.

Q. Well, what is the average number of times you see him down there each week? A. Well, I can't say definitely.

Q. Well, is it as many as eight or ten?

1108]

Mr. Smith: If the Court please, object to this for the reason it is argumentative with the witness.

The Court: Overruled.

Q. (By Mr. Crawford) Is it as many as eight or nine times a week?

Mr. Malloy: Object to that as leading and suggestive, if Your Honor please.

The Court: Overruled.

Q. (By Mr. Crawford) You may answer the question. A. He isn't down there that many times.

Q. But it is several times a week, is that correct? A. It just depends on how often he takes them down.

Q. Have you been taken to the Police Station by the defendant Peterson? A. No.

Q. You never have been? A. Yes, he takes us down there -- I'm sorry.

Q. All right. And about how often does he take you down?

A. Every ten days.
Q. Has it always been every ten days as long as you can recall? A. Approximately.
Q. How long have you been registered in the Carolina Hotel? A. Since about November 1st.
Q. Of 1956? A. Yes, sir.
1109] Q. And when he takes you down to the Police Station to whom do you pay your money? A. To Mr. Wells.
Q. Have you ever paid any one other than Mr. Wells? A. No.
Q. How much do you pay Mr. Wells? A. $25.
Q. Are you put in jail? A. No.
Q. Have you appeared in Court the next day? A. No.
Q. Have you employed an attorney to represent you? A. Mr. Wells is supposed to.
Q. Mr. Wells is supposed to represent you? A. No, supposed to have an attorney for us.
Q. Do you know who that attorney is? A. I think Mr. Hulett but I don't know for sure.
Q. And do you know how much your bond is? A. $25 is what it is supposed to be.
Q. Now have you ever seen Wells talking with Charlotte Bradford? A. At the hotel.
Q. And is it true or is it not true that most every time 1110] he comes down he talked to Charlotte? A. Most generally.
Q. And where do they go to talk? A. I don't know.
Q. Well, do they go into her apartment or someplace else? A. That I don't know.
Q. Have you ever seen them go into her apartment? A. No.
Q. Well, have you not seen Wells when he was about to leave, talking with Charlotte?

Mr. Malloy: If Your Honor please, I object to this; that has been asked and answered, and is argumentative.

The Court: Sustained.

Q. (By Mr. Crawford) Miss King, where have you seen Charlotte talking to Wells in the hotel?

Mr. Smith: If the Court please, object to that as being repetition; she has already said she didn't recall.

The Court: Overruled, you may answer that question.

A. Sir?

The Court: The question is, where in the hotel have you seen --

A. In the sitting room.

The Court: -- Charlotte Bradford talk to Wells.

A. In the sitting room.

Q. (By Mr. Crawford) And where is the sitting room with
1111] reference to Charlotte's apartment? A. In front of the hotel.
Q. Is her apartment also in the front of the hotel? A. No, it is at the back.
Q. Is that the only place in the hotel you have seen them talking together? A. Yes, sir.
Q. Is that the only room in the hotel you have seen them go in together? A. Yes, sir.
Q. Have you ever given any money to the defendant Peterson? A. Yes, sir, I loaned him some.
Q. Well, have you ever given him any money other than loaning him any? A. No.

Mr. Crawford: I have no further questions at this time.

Cross-examination by Mr. Hickman

Q. Did Mr. Peterson arrest you by himself or with officer John C. Murray? A. I don't remember he ever took us down by himself, or not.
Q. Wasn't it always in company with his officer partner, John Murray? A. Most always, yes.
1112] Q. And you are a prostitute are you? A. Yes, sir.
Q. How long have you been in that profession? A. I have been down there since the 1st of November.
Q. Had you ever practiced prostitution elsewhere? A. Yes.
Q. Have you generally always been arrested and paid

fines to Municipal Courts in other cities? A. Yes.

Q. Is this practice of arresting you ever week or ten days and taking you to the police station and booking you for prostitution, requiring you to deposit cash for bonds, -- somebody, or to pay a fine, the customary procedure with Municipalities in handling prostitutes? A. Well, I think it is.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Do you know whether or not it is? A. I don't know.

Mr. Hickman: It has been your experience, hasn't it? A. Yes, sir.

Cross-examination by Mr. Smith

1113] Q. Miss King, you say you have been here since November?
A. Yes, sir.
Q. You were here in Tulsa several years ago though, were you not? A. Yes, sir.
Q. And did you practice prostitution at that time? A. Yes, sir.
Q. And how long were you here then? A. Well, I don't remember now; it has been quite a while back.
Q. Do you recall when that was? A. No.
Q. When did you first begin the practice of prostitution in the City of Tulsa -- approximately when? A. Well, it was either '32 or '33.
Q. '32 or '33? A. Yes, sir.
Q. Now, since you first began the practice of prostitution have the Municipal Courts and officials and judges handled the matter of prostitution in the same manner that it is now being handled? A. Yes, sir.
Q. Through all those years? A. Yes, sir.
Q. You understand when you pay Mr. Wells the $25, or
1114] whatever bondsman you pay, that from that amount he is to employ a lawyer? A. Yes, sir.
Q. And to enter a plea of guilty for you? A. Yes, sir.
Q. That is explained to you and you know that? A. Yes,

sir.

Q. You understand that, don't you? A. Yes, sir.

Q. You also understand that from the $25 he is to pay the fine? A. Yes, sir.

Q. To the city administration? A. Yes, sir.

Q. And do you know that the fine and costs in cases of your kind, on arrests may amount to $14? A. I didn't know how much it was.

Mr. Smith: That's all.

Redirect Examination by Mr. Crawford

Q. How much of your earnings, Miss King, do you have to give to Charlotte Bradford?

1115] Mr. Smith: Now, if the Court please, object to that as being entirely improper.

The Court: Objection sustained.

Mr. Crawford: May I approach the Bench on that then with Mr. Smith?

(Thereupon Mr. Crawford and Mr. Smith and Mr. Malloy conferred at the Bench.)

Q. (By Mr. Crawford) Has Cliff Wells ever given you a receipt? A. No.

Q. Have you ever paid any bondsman other than Cliff Wells? A. No.

Q. Now, when did you say you first entered the practice of prostitution? A. In '32.

Q. And what cities have you worked in besides Tulsa? A. Sioux City, Kansas City, --

Q. In those cities were you taken down every ten days? A. No.

Q. How often were you taken down in Kansas City? A. I wasn't in Kansas City.

The Court: You testified that you had had experiences in other cities similar to the experiences you related here in

Tulsa, and in what other cities haveyou had an experience similar to --

1116] A. Cheyenne, Wyoming.

The Court: -- to the plan followed here in Tulsa.

A. Cheyenne, Wyoming.

The Court: Cheyenne, Wyoming?

A. Yes, sir.

The Court: Is that the only one?

A. Yes, sir, as near as I can remember now.

The Court: How long were you there?

A. Just a short while.

The Court: How many times were you taken to the police station?

A. Twice.

The Court: Twice?

A. Yes, sir.

The Court: Anything further?

Mr. Crawford: If I may, Your Honor.

Q. (By Mr. Crawford) Has anyone told you to pay $25 -- the $25 to Cliff Wells?

Mr. Smith: Wait just a moment; object to that as being incompetent, irrelevant and immaterial.

The Court: Overruled.

Q. (By Mr. Crawford) Has anyone told you to pay the $25 to Cliff Wells? A. No.
Q. No one has? A. No.

1117] Mr. Crawford: If the Court please, I would like to excuse this witness at this time. No further questions.

Mr. Malloy: Let me ask you one question at this time -- if I may, please.

Cross-examination by Mr. Malloy

Q. When you give the $25 to Mr. Wells as I understand it it is your understanding that out of the $25 that he will get his fee for making the bond, he will also obtain an attorney for you --

The Court: That has been inquired into.

Mr. Malloy: I want to ask one other question then if I may.
Q. (By Mr. Malloy) In addition to those things that have been asked and you have answered about, the Court convenes in the Municipal Court at 8 o'clock in the morning, is that right? A. Yes, sir.
Q. Under the method that you have chosen to follow here you don't have to get up and go down there at 8 o'clock in the mornding, do you? A. That's right.
Q. That is an added advantage to doing it this way? A. Yes, sir.

1118] Mr. Malloy: That's right.

Cross-examination by Mr. Hickman

Q. When you pay Cliff Wells this money do you do it openly? A. Yes, sir.
Q. Or in secret? A. No, sir, openly.
Q. Right there in th public building? A. Yes, sir.

Mr. Hickman: That's all.

The Court: That's all.

Jay L Jones et al. vs. United States of America

VENUS SCHAFFER, called as witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Venus Schaffer.
Q. Is that Miss Schaffer or Mrs.? A. Miss
Q. Now, Miss Schaffer, have you been registered in the Carolina Hotel? A. Yes.
Q. For how long a period of time have you been regis-
1119] tered there? A. About a year and four months.
Q. Do you know the defendant Peterson -- Tommie Peterson? A. Yes.
Q. And do you know Cliff Wells? A. Yes.
Q. When you first registered in the Carolina Hotel how often did Peterson and his partner Murray take you down to the station? A. Once every ten days.
Q. When you first registered there? A. No, they took me once every two weeks when I first registered.
Q. When you went to the police station with them at that time what did you do? A. Well, they took us in the vice room and they booked us, and then we gave Mr. Wells $25 and went home.

Mr. Malloy: If Your Honor please, I can't hear the witness.

The Court: Will you repeat the statement you have just made and raise your voice so you can be heard.

A. Well, they take us to the vice room, and they booked us, and then we give Cliff Wells $25 and we went home.
Q. All right, do you know what the $25 was for?
A. Well, it was just supposed to be a fine.
1120] Q. And did you ever employ an attorney to represent you?
A. No.
Q. When did they start taking you down about every ten days? A. I guess it has been about six months ago or maybe four months -- I don't know exactly when it was.
Q. Now, did they take all the girls from the Carolina Hotel down at once? A. No, they take about three or four at once and they would come back the next day and get some more.
Q. And who would call Cliff Wells? A. Well, Charlotte

would or sometimes he would be down there waiting for us.

Q. Did you ever pay over that period of time any bondsman other than Cliff Wells? A. No, I never did.

Q. Did you ever get your bond receipt? A. No.

Q. Do you know whether or not you were charged in Court? A. No, I don't know.

Q. Did you ever give any money to Peterson? A. Well, as a Christmas present.

Q. Did he ever ask you for any money? A. No.

1121] Q. Was the money you gave him at Christmas the only money you have ever given him? A. Well, that's the only money I have ever given him, but I have helped --

Mr. Malloy: Objected to, object to any voluntary statement, if Your Honor please.

The Court: Overruled.

Q. (By Mr. Crawford) You may go ahead. A. Well, I had given Boots King $25 one time, she said she was going to give it to him.

The Court: That wouldn't be proper; that would be hearsay -- that is hearsay; that statement of the witness should not be considered by the jury, the last statement.

Q. (By Mr. Crawford) Now, do you know when the Carolina Hotel closed? A. It was around the first part of March.

Q. And all of the girls left at that time? A. Yes, we did.

Q. And where did you go?

Mr. Malloy: If Your Honor please, I object to this, this is outside, incompetent, irrelevant and immaterial, outside of the period of the alleged conspiracy.

The Court: Come up to the Bench, if you will.

(Thereupon Mr. Malloy, Mr. Crawford and Mr. Smith conferred with the Court at the Bench.)

1122] The Court: I sustain the objection.

Mr. Crawford: I have no further objections.

Cross-examination by Mr. Hickman

Q. How long have you been practicing prostitution?
A. Just since I have worked at the Carolina?
Q. Since when? A. December 17, 1955.
Q. After -- '55 or '56? A. '55.
Q. You have lived here then all through 1956? A. Yes.
Q. And you live here now? A. No.
Q. Where do you live now? A. New Orleans.
Q. When did you leave here and go to New Orleans?
A. Oh, about March 3rd.
Q. Now have you been practicing prostitution down in New Orleans? A. No.
Q. Where is your home? A. New Orleans.
Q. Did you practice prostitution any place before you came here in the latter part of '55? A. Well -- I worked in Fort Smith for about a week.
1123] Q. Were you arrested there by the police? A. Yes.
Q. And did you have to pay a fine? A. Yes.
Q. What happened? A. Well, they just took me to jail and finger printed me and --
Q. And what? A. And finger printed me.
Q. I didn't understand that.

The Court: Finger printed.

Mr. Hickman: Oh, finger printed.

A. And then they just said I could go on back to work.
Q. (By Mr. Hickman) Did you undergo a physical examination? A. No.
Q. How often would Mr. Murray and Mr. Peterson arrest the girls that were practicing prostitution in the Carolina Hotel?
A. Well, first it was once every two weeks and then it was once every ten days.
Q. And they would all go to the police station and you knew you were being booked for prostitution, didn't you?
A. Yes.
Q. And didn't you understand by putting up this money
1124] with your bondsman that out of that money that the city

would collect a fine -- did you understand that? A. Yes.

Q. You knew that? A. Uh huh.

Q. You knew in other words Mr. Wells didn't get it all, A. No.

Q. You said you loaned some money to Mr. Peterson at Christmas time or gave him some money, how much? A. It was a gift.

Q. It was a gift? A. Uh huh.

Q. Did you make a gift to Mr. John C. Murray too? A. Yes.

Q. Hoping that they would lay off of you and not arrest you any more, was that it? A. No, it was for Christmas; we always gave them a gift. I was there last Christmas and --

Q. Was he always courteous in his arrests or was he rough? How did he treat you? A. No, he wasn't rough.

Q. In other words, you knew that every ten days he would show up and you would have to go to the police station and pay tribute to the City of Tulsa -- you knew that? A. Yes.

1125] Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Have you ever seen Charlotte Bradford talking with Cliff Wells? A. Yes.

Q. Have you ever seen any moneys pass between them?

Mr. Malloy: We object to this as improper redirect.

Mr. Crawford: Then I would like to reopen on the direct.

The Court: Overruled.

Mr. Malloy: Exception.

A. Well, they would talk a lot, and maybe make change, or something like that, but I have never seen each one give any money to --

Q. (By Mr. Crawford) How often have you seen Cliff Wells down at the Carolina Hotel? A. Well, about four times a week sometimes.

Q. Do you know what he -- did you know what he was

doing down there? A. No.

Q. Did he talk with Charlotte most every time he came down? A. Yes.

Q. And did they ever talk alone? A. Well, sometimes they would go back into Charlotte's apartment.

Q. And did you ever borrow the money from Wells when
1126] you went to the station or did you always have the cash?

A. I always had mine.

Q. He never came to the Carolina Hotel to collect from you, is that right? A. No.

Q. Who explained to you, Miss Schaffer, how the operations would be down at the Carolina Hotel when you first came there?

Mr. Smith: Object to that as incompetent, irrelevant and immaterial.

The Court: Overruled.

A. Well, the girls did, and Charlotte too, and I think that John Murray told me one time how they took us to jail.

Mr. Crawford: That's all.

The Court: All right, you will be excused.

Mr. Crawford: Just one further question, if I may -- just one further question.

Q. (By Mr. Crawford) Have you ever paid any of your profits to Peterson? A. No.

Q. Handed them to him? A. No -- well -- sometimes if Charlotte wouldn't be in front, whoever was there would take the money.

Q. Was Peterson ever the one that was there? A. I
1127] don't remember -- I think one time he was the only one there when Charlotte went to the back or something, I believe he was sitting at her desk.

Mr. Crawford: That's all.

The Court: Any further questions?
All right, that's all.

Jay L. Jones et al. vs. United States of America

BEVERLY COLEEN CLEAVER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Beverly Coleen Cleaver.
Q. How old are you, Miss Cleaver? A. Twenty.
Q. Do you know the defendant Tommie Peterson? A. Yes.
Q. Do you know the defendant Cliff Wells? A. Yes.
Q. When did you first meet Tommie Peterson? A. In August.
Q. Of 1956? A. Yes.
1128] Q. And how did you happen to meet him? A. Well, he picked me up at the hotel.
Q. What hotel was that? A. The Browning --no, it was the Corona first.
Q. Where did he take you? A. To the police station.
Q. What did you do after you arrived at the police station? A. Well, they wrote out something on a piece of paper and then I went around and paid this $25 fine.
Q. To whom did you pay the fine? A. Cliff Wells.
Q. Then what happened; did you leave the station? A. Yes.
Q. Now, did Peterson ever tell you who you were to pay the $25 to each time? A. Yes.
Q. Who did he say? A. Cliff Wells.
Q. And did you ever have an attorney to represent you? A. No.
Q. Did you ever authorize Wells to hire an attorney for you? A. No.
Q. Do you know what happened to the $25? A. Well, he handed it to that -- some policeman behind the glass, I don't know who it was.
1129] Q. Did that happen every time you went down? A. Yes.
Q. Have you ever had a trial in Municipal Court? A. No.

Mr. Crawford: That's all.

The Court: Cross-examine.

Jay L. Jones et al. vs. United States of America

Cross-examination by Mr. Hickman

Q. Did you understand that you were being arrested for practicing prostitution? A. That is what I paid the fine for, -- vagrancy, that is what they said.

Q. You were charged with vagrancy? A. I guess that is what it was; I paid a fine for protection, that's all I know.

Q. Well, you paid a fine on the theory that you were violating the Municipal Ordinance of the City of Tulsa, isn't that right? A. I didn't understand.

Q. Well, you know that the money you paid Mr. Wells, you paid him openly? A. Yes

Q. And he handed it to the desk sergeant? A. Yes.

1130] Q. For your bond? A. Yes.

Mr. Hickman: That's all.

Cross-examination by Mr. Smith

Q. And do you know that out of that money Mr. Wells paid your fine to the City of Tulsa? A. Yes.

Mr. Smith: That's all.

The Court: That's all.

Redirect Examination by Mr. Crawford

Q. Do you know what your fine was? A. $25 is all I know.

The Court: All right, that's all.

* * * * *

1131] SHIRLEY ANN DUNCAN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Please state your name. A. Shirley Ann Duncan.

The Court: Raise your voice; speak louder.

Q. (By Mr. Crawford) Do you know Tommie Peterson? A. Yes, sir.
Q. Do you know Cliff Wells? A. Yes, sir.
Q. When did you first meet Tommie Peterson? A. I don't remember the exact date.
Q. Do you remember the month? A. Yes, sir, in February.
Q. And where were you living at that time? A. At the Bliss Hotel.

The Court: February what year?

A. 1956 -- pardon me, it was 1957.

The Court: February of this year?

A. This year.

1132] The Court: All right.

Q. (By Mr. Crawford) Now, could that have been on or about February 4, 1957? A. Yes, sir.
Q. And where did Mr. Peterson take you? A. To the police station.
Q. And what happened when you arrived at the police station? A. They took my name, and -- name and address and then I paid Cliff Wells.
Q. How much did you pay Cliff Wells? A. $25.
Q. Who told you to pay Cliff Wells $25? A. I didn't have the exact money in my pocket so they let the bondsman -- Cliff Wells was the bondsman, so they got it from him.
Q. You paid the money to him? A. Yes, sir.
Q. Were you free to go thereafter? A. Yes, sir.
Q. Did you employ an attorney to represent you? A. Sir?
Q. Did you employ an attorney to represent you? A. No, sir.
Q. Was anything said about an attorney to represent you?
1133] A. I don't exactly know what you mean.
Q. Did anybody say anything to you about a lawyer to represent you? A. No, sir.
Q. Did you know you had been charged with a crime? A. No, sir.
Q. Nobody told you you had been charged with a crime?

A. No, sir.
Q. Did they tell you to come back to court the next day?
A. No, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Well, were you practicing prostitution at the Bliss Hotel? A. Yes, sir.
Q. That is the first time you ever met Mr. Peterson?
A. Yes, sir.
Q. Who was he in company with? A. I don't remember the fellow's name that was with him.
Q. Well, would this remind you: John C. Murray -- John Murray? A. I don't remember.
Q. But there were two officers came and arrested you at the Bliss Hotel? A. Yes, sir.
Q. Were you at that time practicing prostitution in that
1134] hotel? A. Yes, sir.
Q. Well, then, you were taken to the police station under arrest, were you? A. Yes, sir.
Q. And had that been your first experience of being arrested? A. Yes, sir.
Q. Any place? A. It was the first.
Q. I didn't mean just here. A. No, sir, yes, sir, it was; this was the first time I had been arrested for anything.
Q. How long have you practiced prostitution? A. I practiced about six weeks.
Q. Well, did you say what -- you say you didn't have enough money to put up for the bond? A. Not at the moment I didn't.
Q. Well, who furnished the rest of the money? A. The next day he came to my apartment and I paid him.
Q. How much? A. $25.
Q. You didn't have any money at the time? A. No, sir.
1135] Q. Well, did you see what Cliff Wells did with his money? Did he put it up for bond? A. No, sir, I just signed a slip of paper.
Q. What did the paper say? A. I beg your pardon I didn't sign that; he just told me he would be up the next day to collect it.

Q. Well, you knew he was putting up some money for you for bond to release you, didn't you? A. Yes, sir.

Q. That was the purpose of putting up the money, was in the form of a bond, to obtain your release, you knew that didn't you? A. Yes, sir.

Q. Did you have any talk with Mr. Wells then the next day as to how much your fine had been? A. No, sir; they told me -- Tommie told me it would be $25.

Q. Who told you that? A. Tommie, and the fellow that was with Tommie.

Q. That that is what the bond would be, didn't he? A. Yes, sir.

Q. Do you know whether or not the next morning the City of Tulsa received part of that money? A. No, sir.

Q. Well, when did Mr. Wells come up and collect it from
1136] you? A. Between 10 and 11 the next morning, -- Saturday morning.

Q. Oh, you hadn't been fined yet, you were arrested on Saturday night were you? A. Saturday morning -- I believe -- I'm not sure, but it was one day, and he came up Sunday morning to collect.

Q. Was it the next day? A. I believe so.

Q. Then you were arrested on Saturday -- probably late Saturday morning? A. Yes, sir.

Mr. Hickman: That's all.

Mr. Crawford: That's all.

The Court: Just a moment.

Cross-examination by Mr. Smith

Q. This may be repetition -- I couldn't hear everything you said over there. You say you didn't have any money at the time you were arrested? A. No, sir.

Q. And Mr. Wells advanced the money for you, for your bond, is that right? A. Yes, sir.

Q. And the money was paid into the desk sergeant in the
1137] police building at that time, wasn't it? A. We -- when I got the bondsman, Cliff Wells came in, we went around to the window, there were two more girls went around to the window and they told me that I was free.

Q. But you didn't have any money? A. No, sir.
Q. Cliff Wells trusted you for $25 and made your bond? A. Yes, sir.
Q. And the next day he came ard collected his money from you? A. Yes, sir.
Q. You don't know whether Mr. -- I don't know whether Mr. Hickman asked you or whether you told or not: You understood that that -- from that bond would be deducted the amount of your fine that was commonly charged by the City of Tulsa against prostitutes, didn't you? A. This was my first experience as a prostitute, so I didn't know when they took me to the police station what they charged me with -- I just thought I should go pay --
Q. In other words you didn't really understand what was going on? A. No, sir.
Q. Being your first offense. You had talked with other prostitutes -- haven't you? A. No, sir.
Q. You haven't? A. No, sir.
1138] Q. And you say you were staying at the Bliss Hotel?
A. Yes, sir.

Mr. Smith: I believe that's all.

The Court: That's all.

JOYCE ADAMS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Joyce Adams.
Q. Miss Adams, have you ever lived in the Carolina Hotel here in Tulsa? A. Yes, sir.
Q. When did you first register into the Carolina Hotel? A. I think in May or June 1955.
Q. All right, at that time was the first time that you lived in Tulsa? A. No, I lived here before.
Q. All right, when had you first lived here? A. Oh, during that year and the year before, off and on
Q. Were you engaged in the practice of prostitution when

1139] you first lived here? A. Yes.

Q. Now at that time how often were you taken down to the police station? A. I think about once a month.

Q. When you were taken to the police station at that time you say this was two or three years ago? A. Before?

Q. Yes. A. Yes.

Q. When you were taken to the police station then what did you do with reference to any payment of money? A. Well, I just made my own bond and then went to Court when I first came here.

Q. How much was your bond then, do you remember? A. $20.

Q. Was that cash bond that you put up? A. Cash bond.

Q. Did you get a receipt for it? A. Yes -- no, I don't know whether I got a receipt for it or not -- yes, we got something turned over to us.

Q. You paid that money to a police officer, is that right? A. No, paid it to someone in the window, upstairs of the --

Q. Sc one employed by the police department? A. Yes.

1140] Q. All right. And then did you employ an attorney thereafter to represent you, or did you got to court yourself? A. We went to court ourselves.

Q. Did you ever employ an attorney to represent you thereafter? A. No.

Q. Now, since you have been living in the Carolina Hotel this last time how often have you been taken down to the police station? A. This last time?

Q. Yes. A. Every ten days since Christmas.

Q. And how does the procedure now work? A. Oh, we just go down and Mr. Wells gets us out.

Q. How much do you pay Mr. Wells? A. Twenty-five.

Q. Have you ever failed to pay the $25? A. No, I never have.

Q. Do you know why you are taken down every ten days now instead of once a month? A. No.

Q. Do you see Mr. Wells down there at the Carolina very often? A. He comes by sometimes.

Q. All right, and -- A. Maybe gets some money someone

1141] owes him or something.

Q. During this last time you have been at the Carolina have you ever employed an attorney to represent you? A. No.

Q. Have you ever appeared in Court? A. No.

Q. Were you taken down to the police station on or about January 29, 1957? A. I imagine I was.

Q. Did you pay Cliff Wells $25 at that time? A. Yes.

Q. Have you ever paid the money to anyone here recently besides Cliff Wells? A. No.

Q. Has anybody ever asked you if you wanted to employ a bondsman? A. No.

Q. Have you ever asked to employ a bondsman? A. Do you mean at the Carolina Hotel?

Q. Yes. A. No.

Q. Has someone told you to pay the $25 to Cliff Wells? A. Well, I was using him for a bondsman. I thought -- making our bond, so I wouldn't have to appear in court.

Q. Does Mr. Wells ever give you a receipt? A. One time.

Q. When was that? A. I guess the time after I appeared 1142] before the grand jury.

Mr. Malloy: Let me just ask you onw or two questions, please.

Cross-examination by Mr. Malloy

Q. As I understand it, you have been here before in Tulsa and were operating out of the Carolina Rooms then? A. No.

Q. What rooms were you operating out of then? A. The Reeder Hotel.

Q. I understand that was 1955, is that right? A. Latter part of 1954.

Q. On the occasions that you were arrested in those days and taken to the police station, you made your own $20 bond, is that right? A. That's right.

Q. So the jury understands the mechanics of this what that means is that you took out $20 bill, or the sum total of $20 anyway; you gave that money to the desk sergeant; that was for your bond? A. I didn't give it to the desk sergeant; I gave it to someone.

Q. Well, to a clerk, someone, and you were released? 1143] A. Yes, had to go back to the Court the next morning.

Q. I am talking about at that time. When you were first appeared -- when you were first brought down, would it be normally in the daytime? A. Yes.

Q. You weren't put in the jail at that time, behind the bars, actually? A. No.

Q. At that time you would simply take this $20 and go up to this clerk, and you would get a receipt for $20, then you would leave and go back to the hotel, is that right? A. Yes.

Q. When you put up your own $20, you had to go down to Court the next morning, didn't you? A. That's right.

Q. Under this system that you are now operating with, when you pay the $25 to Wells you understand you don't have to get up at 8 o'clock in the morning, the next day; that's all taken care of, isn't it? A. I guess so; we don't go to Court.

Q. Fine, because an attorney -- A. That's right.

Q. Do you sometimes work rather late of an evening? A. Yes.

Q. Isn't it of some considerable advantage to not get
1144] up at 8 o'clock in the morning, to you? A. Well, didn't make any difference.

Q. Didn't make any difference.

Mr. Malloy: That's all.

Mr. Crawford: That's all.

* * * * *

VENUS SCHAFFER, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Now, Miss Schaffer, when Cliff Wells would come down
1145] to the Carolina Hotel what time of the day would he usually come down? A. Well, sometimes he would come down early in the morning.

Q. Would he talk to any of these girls at that time, or would he talk to Charlotte? A. Well, sometimes we would still be sleeping; he would talk to Charlotte anyway.

Q. Where would he talk to Charlotte? A. Sometimes he would go in her apartment.

Mr. Smith: That is repetition; that very question was asked and answered by this witness.

The Court: I believe that's right.

Mr. Crawford: All right.

Q. (By Mr. Crawford) Did you ever see any of the girls pay Cliff Wells money in the Carolina Hotel when they were both there? A. No.

Q. Did you ever pay him any money in the Carolina Hotel? A. No.

Q. How often has Cliff Wells been coming down to the Carolina Hotel in the past six weeks? A. Well, I don't think he has been down there very many times.

Mr. Smith: Just a moment, -- if the Court please,
1146] object to that as being incompetent, irrelevant and immaterial.

The Court: I will sustain the objection.

Mr. Smith: Outside the time.

Mr. Crawford: That's all.

PAT KNODE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Pat Knode.

Q. Miss Knode, have you lived in hotels here in the City of Tulsa? A. Yes, sir.

Q. And which hotels have you lived in? A. I have lived in the Browning, lived in the Reeder.

Q. Have you ever lived in the Carolina? A. No, sir.

Q. Have you been down to the Carolina? A. I was down there one time.

Q. Do you know the defendant Tommie Peterson? A. I do.

Q. Do you know the defendant Cliff Wells? A. I do.
1147] Q. Will you explain to the jury the circumstances for your going to the Carolina that one time.

Mr. Malloy: If Your Honor please, object unless the time is stated.

The Court: Overruled.

Mr. Malloy: Within the period of this conspiracy, or not --

The Court: Well, of course we will get to the time in a moment, but be a little more patient with those objections. They have to tell one thing at a time.
You may answer the question.

A. Mr. Peterson asked me to come down there.
Q. (By Mr. Crawford) Where were you living at the time? A. The Reeder Hotel.
Q. Do you recall about when this was that he asked you to go down there; do you recall the month? A. I can't recall what month.
Q. Was it in 1956 or 1957? A. It was in '56.
Q. Do you recall whether it was in the summertime, wintertime, fall or spring? A. It was in the summer.
Q. And how long did you stay at the Carolina?
A. About three hours.
Q. And where did you go when you left the Carolina?
1148] A. Back to the Reeder Hotel.
Q. Did you have any further conversation with Mr. Peterson after you went to the Carolina? A. I just told him I wouldn't work down there; I would leave town before I would work there.
Q. Now, Miss Knode, who did you see when you were taken down to the police station?

Mr. Smith: Wait a moment, there has been no evidence that she has been taken.

Mr. Crawford: Well, I will ask her that question:

Q. (By Mr. Crawford) Have you ever been taken down to the police station? A. Yes, sir.

Q. Who took you down? A. Tommie Peterson and John Murray.

Q. Whom did you see when you went to the police station? A. I saw Cliff Wells.

Q. And did you pay him any money? A. Yes, sir.

Q. How much did you pay him? A. $25.

Q. Did you obtain a receipt? A. No, sir.

Q. Did you employ an attorney? A. No, sir.

1149] Q. Did you have any conversation with Cliff Wells at any place other than the police station? A. Just back at the hotel.

Q. And would you relate those conversations; did you have one or more than one? A. Well,just one that I can recall.

Q. And when did that conversation take place? A. Repeat that question, please.

Q. I say, when did that conversation take place to the best of your knowledge? A. Well, it was on the way back from the station to the hotel and --

Q. Were you in an automobile? A. Yes, sir.

Q. Who was driving the automobile? A. Cliff Wells.

Q. Was anybody else present? A. No, sir.

Q. All right, would you relate that conversation to the jurors, please. A. I said, this is a nice car you have got, and he said, Yes, -- thanks to the prostitutes of Tulsa.

Mr. Smith: Now, if the Court please, I move to strike that and ask that the jury be admonished not to consider it.

The Court: Overruled.

1150] Mr. Crawford: That's all.

Mr. Smith: It is not a proper question.

The Court: Objection overruled. Any cross-examination?

Cross-examination by Mr. Hickman

Q. The occasion of your being in the police station was by reason of an arrest by Mr. Peterson and Mr. Murray?

A. That's right.

Q. And did they take you to the police station and book you on a charge -- were you booked and charged with some offense? A. Vagrancy.

Q. Vagrancy? And who informed you as to how much the bond would be? A. Cliff Wells.

Q. And did you see what he did with the money that you paid him? A. No, sir, I didn't.

Q. Didn't you see him pay it to the court clerk? A. No, sir.

Q. Did you have any conversation with him at all about having to have an attorney to appear for you? A. No, sir.

Q. Were you told to return to court the next morning? 1151] A. No, sir.

Q. How many times were you arrested? A. I couldn't tell just how many times except --

Q. About how many? A. Well, I don't know; I will say probably a dozen times.

Q. How long have you practiced prostitution in Tulsa? A. I have been in and out of here for the last ten years.

Q. Where have you been when you have been out of here? A. Different places.

Q. Practicing prostitution? A. Not all the time.

Q. Well, while you were, were you paying tribute to cities and municipalities in the way of fines when you were arrested? A. No, sir.

Q. You mean you practice prostitution in other cities without molestation by the police? A. I guess I was just lucky.

Q. Just lucky. Well, how long have you been subjected to arrests here in Tulsa -- when were you first arrested in Tulsa for this? A. I can't recall, just probably four years ago or something like that, I don't recall just how long.

Q. Did you put up money for a bond then? A. Yes. 1152] Q. And did you return to Court? A. I have.

Q. And paid a fine? A. Yes, sir.

Q. Well, why didn't you return to court on the occasions when you put up the money with Cliff Wells, when making bond? A. I don't know; I wasn't asked to return to court.

Q. Well,weren't you told that someone would take care of the case for you the next morning? A. Yes.

Q. And who would tell you that? A. They said that

Cliff Wells would take care of the case for me the next morning.

Q. And that you wouldn't have to return? A. That's right.

Q. Well, did you understand that the money that you were paying to Cliff Wells was to be paid to the city by way of a fine -- did you understand that? A. Yes, sir.

Q. In other words, you know that this money wasn't going in his pocket, or in the pocket of a policeman, didn't you? A. I didn't know whose pocket it was going in; I know I just paid the money to him.

Q. Well, you knew it was following an arrest, didn't you -- didn't you know that on each occasion your name was on the court docket? A. No, I didn't see my name on the court docket.

1153] Q. Were you there the next morning to see if it was?

A. No, I wasn't.

Q. You never paid any money to Tommie Peterson nor John Murray, did you? A. I gave Tommie Peterson some money one time when I couldn't get in touch with Cliff Wells.

Q. How long ago was that? A. About three or four months ago.

Q. Was that in the police station? A. That was in his office.

Q. And that was put up for a fine, was it not? A. I suppose it was. He said that he would take care of it for me.

Q. Well, you understood that the money you were putting up was going to be deposited with the court clerk of the Municipal Court, didn't you, Miss Knode? A. Well, all I know, they said it was, that's all I know.

Mr. Hickman: All right, that's all.

The Court: Is that all?

Mr. Crawford: That's all.

1154] C.L. WARD, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is C.L. Ward? A. Yes, sir.
Q. Mr. Ward, you are a professional bondsman, are you not? A. Yes, sir.
Q. Are you licensed to practice in the Municipal Court in the City of Tulsa? A. Yes, sir.
Q. How long have you practiced as a bondsman there? A. Since 1949.
Q. And do you know what other bondsmen are licensed to practice in the Municipal Court? A. Yes, sir.
Q. Mr. Carter, Mr. Wells, and Mr. Fleming, and Mr. Little, and Mr. Strodes.
Q. Now, Mr. Ward, in accordance with you profession as a bondsman it is necessary that you be in the Municipal Court in the police station at times, is it not? A. Yes, sir.
Q. Have you ever made a bond for a girl out of the Carolina Hotel?

1155] Mr. Smith; Now, if the Court please, object to that as being incompetent, irrelevant and immaterial.

The Court: I can't be certain whether it is or not; it might be. I will overrule your objection. Of course unless it is in some way connected with the charge made here it will not be considered by the jury.
You may answer the question.

A. No, sir.
Q. (By Mr. Crawford) Do you make bonds for bootleggers and other people who are charged with violations in Municipal Court? A. Yes, sir.
Q. And would you say from your experience that you get your fair share of their business? A. Yes, sir.
Q. In the past.

Mr. Smith: I believe I will object to this line of testimony -- renew my objections to it; I can't see the pertinence of it unless the District Attorney wants to make an offer.

The Court: Do you want him to explain his reasons for --

Mr. Smith: Yes.

The Court: For this line of interrogation.

Mr. Smith: I would like --

The Court: Tell him the purpose.

1156] Mr. Smith: I would like to approach the Bench, and have him --

The Court: Well, I think I know; you may approach the Bench.

(Thereupon Mr. Crawford and Mr. Smith conferred with the Court at the Bench.)

The Court: You may proceed.

Q. (By Mr. Crawford) Mr. Ward, are you usually available in the morning, -- at the morning session of the Municipal Court docket as a bondsman, do you have any official business in the vice squad room? A. Well, once in a great while you do.

Q. And what type of business would you have in the vice squad room there at the police station? A. Oh, you would be -- get a call one of your clients was coming in or something, you would be around there looking to see what it was, something like that, then you would look in the vice squad room to see if they were in there.

Q. Now, the $20 cash bond is put up on the city charge of vagrancy for a prostitute is a property bond or a cash bond? A. Cash bond.

Q. In other words, it is not possible to put up a property bond on that $20 for a vagrancy charge, is that correct? A. Well, I never did and I don't know of anybody that ever did so I don't believe that it would be. I don't know why it wouldn't be possible though, Mr. Crawford. In other words,

1157] if you had a bond forfeited, whether it was cash or property, it would cost you $20 just the same.

Q. But a $20 in cash would be sufficient to make that bond, is that correct? A. Yes, sir.

Q. Have you ever made bonds for Bill Curlee? A. Well, I don't know for sure whether I have or not.

Q. Have you ever made them for Archie Moore? A. I might have made one for Archie Moore along several years ago, two or three years ago.

Q. Have you ever made bonds for Bill Edwards? A. No, sir.

Mr. Smith: If the Court please, I must object now --

The Court: I don't see the relevancy of the line of questioning.

Mr. Crawford: I was endeavoring to bring it out in answer to Mr. Smith's request at the Bench, Your Honor.

The Court: Well, I don't think it is material; it doesn't appear to me to be material unless you can show to me some reason why it would be.

Q. (By Mr. Crawford) Now, Mr. Ward, from your attendance there in the Municipal Court during the morning sessions have you noticed, or have you not noticed quite a change-over in the prostitutes that appear? A. I don't believe that I understood you, Mr. Crawford.

1158] Q. Well, is it the same prostitutes -- are they the same prostitutes appearing month after month, or is th re quite a change-over?

Mr. Smith: I object to that, if the Court please as being incompetent and irrelevant and immaterial.

The Court: I will sustain the objection.

Mr. Crawford: I have no further questions.

The Court: Any cross-examination?

Cross-examination by Mr. Hickman

Q. I would like to ask you a question: You say you have been making bonds down there for ten years? A. Since the first of January 1946.

Q. You are on your eleventh year now? A. Yes, sir.

Q. Did you make bonds down there when Mr. Crawford was alternate Municipal Judge? A. Yes, sir.

Q. And when he was City prosecutor? A. Yes, sir.

Q. According to your best recollection, Mr. Ward, were they arresting prostitutes all during that time like they are now about every ten days or two weeks? A. Well, as far as I can remember they were.

Q. It has been a practice that has been going on in the 1159] Municipal Court for ten years, you know that, isn't that right? A. Yes, sir.

Q. And invariably there is a fine of about $15 or $10, and costs, is that right? A. Up to $20.

Q. Up to $20.

Mr. Hickman: That's all.

The Court: That's all.

The Witness: May I be excused from the Court now?

The Court: May this witness be excused from further attendance in the case?

Mr. Crawford: Yes, sir.

The Court: You may be excused.

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WILLIAM H. HULETT, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is William H. Hulett? A. That's correct.

1160] Q. Mr. Hulett, you are an attorney, is that correct?

A. I am.

Q. And you have practiced in and about the Municipal Courts for a great number of years, is that correct? A. Yes, sir, I have.

Q. Now, Mr. Hulett, do you know the defendant Cliff Wells? A. I do.

Q. Now, Mr. Hulett, a few years back you lived at the Alexander Hotel, is that correct? A. That's right.

Q. That is now a commercial building? A. That's right.

Q. At that time would you relate to the jurors how you came to represent the various prostitutes that you did at that time who were charged with crimes in the Municipal Court. A. Well, the only reason that I know, years ago I represented some I expect twenty years ago, and they have been calling me ever since.

Q. Well, my question is in reference to the manner in which you day by day represented them. A. Well, sometimes they made their bonds and they would put their bond receipts in an envelope and send them to the hotel; when I would get up of a morning they would be in my box.

Q. Well, isn't that generally the way it worked most of 1161] the time? A. Most of the time, that's correct.

Q. You knew those girls at that time did you not? A. Well, not personally; I just knew them if they would call me, they would say, this is so and so, I remembered the name.

Q. Would you take those bond receipts that the girls put in your box to the Municipal Court the next morning, is that correct? A. That's correct.

Q. That was the procedure that was followed when I was down there as alternate judge and city prosecutor, is that right? A. That's right.

Q. Do you recall me asking you one time from the Bench if you knew all those girls that you represented?

Mr. Smith: That's objected to as incompetent, irrelevant and immaterial.

Mr. Crawford: This gentleman has caused this by -- he has cast a reflection; I would like to remove.

The Court: I believe I will permit the question on that account.

A. I don't recall. You may have.

Q. (By Mr. Crawford) Now, Mr. Hulett, do the girls give you -- give the bond receipts to you now? A. Some of them do.

1162] Q. And about how many out of a hundred will do that?
A. Well, that would be hard to say because, well, they won't run some weeks, maybe two, some weeks maybe ten, I wouldn't know -- the majority of them don't I would say.
Q. Does Mr. Wells ever give you the bond receipts?
A. He didn't give me the bond receipts, no, sir.
Q. How does he contact you; what does he say to you?
A. He asks me if I will take care of those girls, if they want me to represent them, plead them guilty in Court.
Q. Isn't it true that most of these new girls in here now you don't even know? A. I don't know hardly any of them.

Mr. Crawford: That's all.

Cross-examination by Mr. Smith

Q. Mr. Hulett, if I get this picture right, a few years ago when a girl was arrested and charged with vagrancy or prostitution, whichever your city ordinance calls for, they posted a bond and then were required to personally appear in Court the next morning, is that true? A. Either appear in Court or appear by attorney.
Q. Now, if they have an attorney they do not have to personally appear in Court, is that right? A. That's correct, on a city charge.
Q. On a city charge? A. Yes.
1163] Q. So that when Mr. Wells makes a bond, he collects an additional $5 fee, which is payment for your services in appearing for the girl the next morning at Court and entering a plea of guilty for that girl? A. That's my fee.
Q. Yes, sir. A. Always has been.
Q. And the City then exacts a fine of approximately $15 from each case including fine and costs? A. That's approximately right.
Q. So that Mr. Wells has a profit of about $5 or such a matter, for his posting the bond and coming down and making it, to keep the girl out of jail? A. Well, I don't know as to that -- I don't know what he charges.
Q. I am just, by computation, -- A. Yes, by computation.
Q. And assuming that they pay him $25, wouldn't that be right? A. Yes, figuring it $25, $5 for me and he would get

$5 back for the bond.

Mr. Smith: Yes, sir.

1164] Cross-examination by Mr. Hickman

Q. Mr. Hulett, has it been your observation during the years you have practiced in the Municipal Court that these prostitutes are brought in and charged with vagrancy under the City Ordinance periodically, about every two weeks or every ten days? A. Something like that, I would say; I never kept any track of it.

Q. And that has been going on during the entire twenty years you have been practicing before the Municipal Court, hasn't it? A. Yes, it practically has.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Hulett, isn't it possible for a person who is charged with vagrancy, who has $25 in cash, to put $20 up with the Court Clerk down there and save $5? A. It sure is.

Mr. Malloy: Wait just a minute.

Q. (By Mr. Crawford) Then what service is Mr. Wells performing for this extra $5? A. Well, that's something I don't know because I am never there when they are brought in; I don't know what kind of a deal he makes with them.

1165] Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Well, you know this: That if no one appears for them and they don't appear in person, the bond is forfeited, and they can be brought in again on the same charge and be required to put up another bond? A. That's correct.

Q. On the same day that that happens? A. That's right.

Q. So they do get the service of not having to appear in person? A. That's correct. I would say this: One reason

that those girls used to call me at all hours of the night, and I told all of them that I knew, that instead of waking me up several times during the night, to have some bondsman post the bond, and have him to tell me in Court the next morning, and I wouldn't have to stay up all night, so I suppose that's the reason they don't call me.

Mr. Hickman: That's all.

Mr. Malloy: Just one question, please.

Cross-examination by Mr. Malloy

Q. In connection with this instance in which the prostitute is charged, makes her own bond, and would slip the bond receipt under your door, back in those days at the Alexander Hotel, they also would attach thereto your fee of $5, 1166] wouldn't they? A. Well, not when the fine was only $15; I would get mine out of the rebate.

Q. Out of the rebate, but any way you would be getting your $5; that was your attorney's fees? A. That's correct.

Mr. Malloy: That's all.

The Court: All right, that's all.

Mr. Smith: I assume from all the discussion we had a moment ago with the Court that this is your last witness on the question of prostitution?

Mr. Crawford: It may not be -- it may not be. I have two reluctant witnesses that I have to talk to.

Mr. Smith: I believe at this time anyway I will on behalf of all defendants move to strike all evidence in this case relative to prostitution and ask the Court to admonish the jury not to consider any of the evidence relative to prostitution as against any of the defendants.

The Court: Your motion is premature.

Mr. Smith: I understood Mr. Crawford a while ago to say

that this would be the last witness.

The Court: Wait until there is no doubt about the situation. It might be at the close of the Government's case would be the most appropriate time.

1167] Mr. Smith: I think it should be done before, Your Honor.

CHALMA WEAKLEY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Chalma Weakley.

Q. Miss Weakley, do you know Marshall Sharp? A. Yes, sir.

Q. Do you know John Hood? A. Yes, sir.

Q. Do you know the establishment at 1225-1/2 East Admiral? A. Yes, sir.

Q. Have you ever worked for Marshall Sharp at that address? A. Yes, sir.

Q. Over what period of time, please? A. I don't remember just how long but it wasn't --

Q. Do you remember what year? A. Last year.

Q. Last year, 1956? A. Yes, sir.

Q. About how many months did you work for Marshall Sharp?

1168] A. Oh, a month or two, something like that.

Q. All right, who did you work for thereafter? A. John Hood.

Q. At the same address? A. Yes, sir.

Q. What type of business were you carrying on there for Marshall Sharp and John Hood? A. I sold whisky.

Q. Could that possibly be referred to as a walk-in? A. Yes, sir.

Q. Did you sell anything else besides whisky? A. No, sir.

Q. What type of working arrangement did you have with John Hood? A. I was -- got half of the profit.

Q. And who got the other half? A. John Hood I guess, I don't know.

Q. Is that the man you gave it to -- was John Hood the man you gave the other half of the profits to? A. Well, he gave my half to me.

Q. He gave your half to you; how often did you settle up with John Hood? A. Once a week.

Q. Now, where would the whisky come from? A. I don't know.

Q. Well, who would bring it to you? A. I don't know.

1169] Q. You mean you would just find it every day? A. I closed the place up at midnight and went home and when I came in of a morning it was there.

Q. Now, during the time that you worked for John Hood in 1956, Miss Weakley, how many weeks did that cover? A. Well, all together I worked there I think about four months, but it must have been about a month or a month and a half I worked for John Hood.

Q. Were you raided by the city police when you were working for Marshall Sharp? A. Well, I was raided by the city police but I don't remember which one was which.

Q. You don't remember whether it was when you were working for John Hood or Marshall? A. No, sir.

Q. Do you remember how many times you were raided? A. Once.

Q. In that several months period you were only raided once by the city police? A. I believe so.

Q. Did they come out any other time? A. Not that I know of.

Q. Did you have a Federal Retail Liquor Dealers Stamp --

1170] tax stamp? A. Me?

Q. Yes. A. I didn't.

Q. Do you know whether or not John Hood did? A. No, sir.

Q. Did you ever discuss it with him? A. No, sir.

Q. Did you consider yourself to be employed by John Hood? A. Yes, sir.

Mr. Crawford: That's all.

Mr. Malloy: Your Honor, what was the answer to the last question?

The Court: She said yes.

Jay L. Jones et al. vs. United States of America

Cross-examination by Mr. Malloy

Q. What was this address, please, ma'am? A. 1225-1/2 East Admiral I believe.

Q. I believe you have testified that when you first went into that place that you were working for Marshall Sharp, is that right? A. Yes, sir.

Q. Now if I understand your testimony, you were in this establishment for about a month and a half in 1956, is that right? A. No.

Q. I mean -- go ahead, I am sorry. A. No, I said I
1171] was there about four months all together.

Q. I see -- in this same location. All right. Now I believe your direct testimony is that during a month and a half of that time you were in the place working for John Hood, is that right? A. Yes, sir.

Q. Well, isn't it a fact that you were actually renting from John Hood at that time, Miss Weakley? A. No.

Q. You were not renting the place from John Hood?
A. No, I just worked for him.

Q. Pardon me. A. I just worked there.

Q. Directing your attention now to this division of profits, fifty per cent, did you turn this money over you say once a week? A. Well now, which one is which?

Q. Well, let's take either one, let's take John Hood.
A. Well, they would come by, not every day, but every day or so, and pick the money up. Then at the end of the week they brought me what I had coming.

Q. You say, "they"; who do you mean by "they"?
A. He or his wife.

Q. He or his wife? A. Yes, sir.
1172] Q. Anybody else? A. No, sir.

Q. Then you didn't just settle up once a week, is that right? A. Once a week.

Q. What do you mean by, you settled up once a week and they came by and picked up the money there every day? A. They brought me what I had coming at the end of the week.

Q. I see. But you turned their money that you picked up there, about every other day, is that right? A. Just about.

Q. Is that right. Now then, how did you know Mrs. Weakley, did you keep track of the sales there on any kind of a ledger or book? A. No.

Q. You didn't? A. I didn't.

Q. And in other words, if a person came in there and bought some whisky, did they pay you by cash, please? A. Yes.

Q. Now, you didn't enter that in any book or ledger? A. No, sir.

Q. Would you have this jury believe that? A. No, sir.

1173] Q. What did you do with it, put it in a can or something?

A. Carried it in my pocket.

Q. Carried it in your pocket. And you say then that after you would turn this money over, then John Hood or Mrs. Hood would come around at the end of the week and give you a certain amount and say, this is what you are entitled to? A. Yes, sir.

Q. Well, did that vary -- each week -- did it vary in amount? A. Yes, sir.

Q. How much did you get out of it a week? A. Well, I -- no certain amount, each week it was different.

Q. How much did you pay John Hood every week? A. I don't know what you mean by me paying him.

Q. Well, now, --

The Court: Do you mean the gross receipts from the business each week?

Mr. Malloy: Right.

The Court: How much money did you take in all together each week?

A. Why, I don't know.

Q. (By Mr. Malloy) You don't know -- you didn't even keep track of that at all, even the total amount? A. No.

1174] Mr. Malloy: That's all.

Cross-examination by Mr. Hickman

Q. With reference to the officers, Mrs. Weakley, who raided you? A. I don't know who they were.

Q. Did they take you to the station? A. No, sir.

Q. Didn't find anything? A. No, sir.
Q. Where was it? A. Up the alley in another house.
Q. Well, did you know that these officers were coming down there? A. No, sir.
Q. Did they have a search warrant? A. Yes, sir.
Q. Had you moved it? A. Had I moved what?
Q. The liquor from the place where you sold it to the place up the alley? A. No, sir, -- no, sir.
Q. Well, what time of day was it? A. Oh, it was -- I don't know just sometime during the day.
Q. Well, had other whisky been there -- had whisky been 1175] stored at your place? A. No, sir.
Q. Before that, that day? A. No, sir.
Q. You mean there was none there at all? A. Never was.
Q. Oh, that guy came to the wrong house then, did they? A. No.
Q. You say there never was liquor there? A. Not while I was there.
Q. Oh, you did business in one place and kept the liquor in another place, that's it? A. Yes, sir.
Q. So when a customer would come in, the customer who was willing to buy it, never would know where it was himself, would he? A. No, sir.
Q. So, if I came in and said, I want a pint of Sunny Brook, I would have to wait there while you went out to some secret place and got it? A. That's right.

Mr. Hickman: That's all.

The Court: That's all.

1176] ROBERT HENSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Robert Henson.
Q. Mr. Henson, do you know the defendant John Hood? A. Yes, sir.
Q. How long have you known him? A. Oh, between three

and four years.

Q. And are you familiar with the establishment known as 1351 East Haskell? A. Yes, sir.

Q. Is that a place you are now operating? A. Yes, sir.

Q. What type of business do you carry on there? A. Well, whisky.

Q. Did you ever work for John Hood at that address? A. I worked in partners with him.

Q. And were you selling whisky at that time? A. Yes, sir.

Q. How long did you work in partners with him? A. From December in '53 until July or August '54.

Q. And are you still operating the place, or have you still been operating the place since 1954? A. Yes, sir.

Q. And you are operating it for yourself now, is that 1177] correct? A. Yes, sir.

Q. All right. What arrangements did you have with John Hood when you were -- what business arrangement did you have with him when you were in partnership with him? A. We split the profit.

Q. You split the profit? A. Yes, sir.

Q. And how often did you settle up? A. Once a week ordinarily.

Q. All right, where did the whisky come from? A. We bought it here in town.

Q. And who did you buy it from? A. Jack Ward.

Mr. Hickman: Jack who?

The Court: Jack Ward -- is that correct?

A. Yes, sir.

Q. At the time you were in partnership with John Hood did you have a Federal retail liquor dealer stamp? A. Part of the time.

Q. What part of the time was that? A. I'm not sure.

Q. Well, was it a matter of months or a year or what? 1178] A. I'm not sure that I had one at that time; I have only had two.

Q. Well, since you have been in operation for yourself, you have had a stamp, have you not? A. Part of the time.

Q. A retail liquor dealer stamp? A. Yes, I have one now.

Q. You have one now? A. I don't know whether I had one last year or year before last, I missed one year.

Q. Was that stamp that you had for part of the time when you worked with John Hood in partnership, in your name or his? A. I am not absolutely sure that I had one then, but it has always been in my name.

Q. And how much -- are you paying to John Hood at this time? A. I am renting the house from him, $45 a month.

Q. You are renting the same house from him? A. Yes, sir.

Q. That you were working from when you were in partnership, is that correct? A. Yes, sir.

Q. All right now, are you renting anything else from him? A. Yes, sir.

Q. And what else are you renting from him? A. Right
1179] now I am renting two other buildings and I have rented another one.

Q. What are the two other buildings? A. There is an old shack and a garage and -- and I have rented a house from him -- another house.

Q. Are those other places used in your whisky stache? A. Part of the time.

Q. In other words, that is where you go after the whisky when a customer comes in at 1351 East Haskell, is that right? A. Well, not necessarily.

Q. Well, you could go to this place, is that right? A. Yes, sir.

Q. Have you been raided by the city police officers very much during the past year? A. Not too much.

Mr. Hickman: We move that be stricken, Your Honor, on the ground that it is the conclusion or opinion.

The Court: I will sustain the objection.

Q. (By Mr. Crawford) Well, how many times have you been raided by the city police officers during the past year? A. Six or seven times.

Q. Have they had warrants each time? A. Yes, sir, that is with the warrants, they have been by more than that without

warrants.

Q. All right and how many times were you raided from May
1180] 8, 1956, to December 13, 1956? A. With a warrant I was about every two months.

Q. About every two months? A. Yes, sir.

Q. Have you been raided more than every two months since December 13, 1956? A. No, sir.

Q. Now, how much rent are you paying, totally, now, to John Hood? A. $145 or $150, up until a month or so ago when one of the places was discovered, and I quit renting it.

Q. All right, do you ever not rent some of these other places besides 1351 East Haskel from John Hood -- in other words, do you ever give one of them back to him for a particular month? A. I have done that when they were discovered.

Q. Well, do you need those places when you are not being raided very much by the city? A. Well, no, you wouldn't need them as much when -- when things were not so hot.

Q. Well, when things are not so hot do you ever not rent those places from John Hood?

Mr. Malloy: Object to this as incompetent, irrelevant and immaterial.

The Court: I am going to sustain the objection. I
1181] don't think it has sufficient probative value to justify going further into it.

Mr. Crawford: All right, sir.

Cross-examination by Mr. Malloy

Q. Mr. Henson, as I understand your testimony now you are presently renting a place here in the City of Tulsa from John Hood? A. Yes, sir.

Q. And this is a whisky place, is that right? A. Yes, sir.

Q. You have had a retail liquor dealer's stamp for how long now, sir? A. I'm not sure -- I have had -- I have had two stamps; I'm not sure -- I think it was year before last and this year, but I am not positive of that.

Q. But you have one now and your testimony is you are renting from John Hood, is that right? A. Yes, sir.

Q. I understand your testimony earlier was that during some period when you did not have a retail liquor stamp, at that time you were working for John Hood, is that your testimony? A. No, sir, I was in partnership with him.

Q. In partnership; did you ever get a partnership stamp with John Hood, retail liquor stamp? A. No, sir, I'm not sure that we even had a stamp at that time.

1182] Q. But you are paying $45 a month, as rent at the present time? A. Yes, sir.

Q. To John Hood. He has a lot of rental property out in that area, hasn't he, Mr. Henson? A. Yes, sir.

Mr. Hickman: Let me ask you, Mr. Henson, you say that you have been raided about every two months with a warrant; how many times have you been raided without a warrant? A. Well, they haven't come in the house without a warrant, but they have come by, and we had whisky in a car -- they came by and got that.

Q. How many times have the officers charged you with violation of the prohibition laws? A. I don't know; I would say three or four times.

Q. In thelaast year? A. No, sir, in fact only once in the last year.

Q. Was that because they didn't find anything? A. No.

Q. Well, when they found it, when they find it what do they do with you? A. They arrest me and --

Q. Well then you are booked for liquor possession?

1183] A. Yes, sir.

Q. And the case comes up in Court? A. Yes, sir.

Q. Have you been convicted? A. Yes, sir.

Q. How many times were you raided in the year 1955? A. I don't know off-hand; I would say every six weeks, something like that.

Q. Six weeks to two months? A. I wouldn't want to pin it down to that; I don't know exactly.

Q. Well, you have been raided just about as many times in '56 as you were in '55, haven't you, Mr. Henson? A. Oh, not quite as many.

Q. Not quite as many. Have the raids been more successful in 1956 than they were in 1955? A. No, sir.

Q. I mean from the officers' standpoint, not your standpoint? A. No, sir, I haven't lost as much whisky in '56 as

I did in '55.

Q. Why is that -- because you have been more careful where you planted it? A. Yes, sir, and I haven't had as much business.

Q. You mean your business has dropped off? A. Up
1184] 'til -- up 'til recently, yes, sir.

Q. And you changed places of concealment of the liquor? A. Yes, sir.

Q. When the officers came into your place at that address on East Haskell, the liquor wouldn't be there, it would be in some other place, maybe in that old garage that you rented nearby, is that the situation? A. Yes, sir, that is possible.

Q. In other words, you were in constant vigilance throughout 1956 to keep your liquor hid where the officers of the city couldn't find it? A. I always try to.

Q. Of course you were fearful that they would find it? A. Yes, sir.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Do you know Leo Jackson? A. Yes, sir.

Q. Do you know Jim Harp? A. Yes, sir.

Q. Do you know Johnnie Cole? A. Yes, sir.

Q. How many times have they raided you in the last year? A. Two or three times.

Q. Did they have a warrant each time? A. Yes, sir, --
1185] they have -- I believe they found whisky without a warrant once or twice, too.

Mr. Crawford: That's all.

Mr. Hickman: That's all.

The Court: That's all.

LEE PRALL, called as a witness on behalf of the Government testified:

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Direct Examination by Mr. Crawford

Q. State your name, please. A. Lee Prall.
Q. Do you know John Hood? A. Yes, sir, I do.
Q. Have you had any business transactions with him recently? A. Yes, sir.
Q. What did you purchase from him? A. A walk-in whisky place.
Q. What was the location of that whisky place? A. 1225-1/2 East Admital.
Q. Was that in the city limits of the city of Tulsa? A. Yes, sir, it is.

1186] Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Do you know who your predecessor was there? A. No, I don't; I was out of town before that.
Q. Well, where do you keep your liquor, Mr. Prall, in any place? A. I have to keep it hid around, just wherever I can.
Q. Why? A. These raids.
Q. To keep the officers from finding it? A. That's exactly right.

Mr. Hickman: That's exactly all.

The Court: That's all.

Mr. Crawford: That's all.

KENNETH PEARSON, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Kenneth Pearson.
Q. Mr. Pearson, you are engaged in the liquor business are you not? A. That's correct.

1187] Q. Do you know the defendant Neal Williams? A. I do.
Q. Did you at one time work for him? A. I did.
Q. And over what period of time did you work for Neal Williams? A. Well, I don't know the exact dates; it was off and on for about two years I would say.
Q. Well, when did you terminate your employment for Mr. Williams? A. I don't remember the dates.
Q. Do you remember the month? A. It was either February or March in '55.
Q. All right now, what type of work did you do for Mr. Williams when you worked for him, Mr. Pearson? A. Delivered whisky.
Q. And in what amounts would you deliver it? A. By the bottle, lug, or case.
Q. And do you recall making deliveries of more than one or two cases? A. No, sir.
Q. You were more or less then a runner, is that right? A. That is correct.
Q. Where would you get the whisky from to load up with, 1188] Mr. Pearson? A. To load up?
Q. Yes. A. We had a place we just drove in and picked it up -- a barn.
Q. Was Mr. Williams with you on some occasions when you were out there? A. I would say so, yes, sir.
Q. Do you know where he got the whicky from to put into the barn? A. No, sir, I don't.
Q. Did you make your deliveries here in the City of Tulsa for the most part? A. Would you repeat that?
Q. I say, did you make your deliveries here in the City of Tulsa for the most part -- did you deliver whisky to people within the city limits of Tulsa? A. I did.
Q. Were most of your deliveries within the City limits of the City of Tulsa? A. Yes, sir, they were.
Q. Did Mr. Williams have anyone else working for him while you were working for him? A. Not regularly, no, maybe a part-time guy.
Q. And about how many deliveries could you make a day? 1189] A. I don't know, sir.
Q. Well, what would be the average number of deliveries that you made a day? A. I don't know that either.
Q. Could you estimate it? A. No, sir, I couldn't.
Q. Would it be as many as fifty? A. No, sir, it won't.

Mr. Gotcher: If Your Honor please, we object to this line of testimony because a retail liquor stamp, which we agreed we had, and we were in the business.

The Court: I sustain the objection.

Mr. Crawford: That's all.

Cross-examination by Mr. Ungerman

Q. Mr. Pearson, were you engaged in the sale of liquor as you have described in Tulsa between January and July of 1955? A. January and what?

Q. Between January and July of 1955? A. Well, sir, I started it must have been February or March, I am not sure, but I was -- after that until July I was.

Q. During that time you were arrested on numerous occasions? A. I was.

Q. Liquor confiscated? A. Part of the time, yes, 1190] sir.

Q. Now, who was the first person to advise you to come up to the Federal Building and discuss your testimony with any Federal official? A. Dick Carter.

Q. That is officer Richard Carter, Tulsa Police Department? A. That's correct, sir.

Q. When did Mr. Carter talk to you about that? A. Well, sir, I don't know the date, something like three weeks ago, I think.

Q. In compliance with his instructions did you come up to this Federal Building to see any one regarding this matter? A. I did, sir.

Q. Whom did you see? A. Mr. Crawford.

Q. Do you remember when that was? A. No, sir, I don't.

Q. Do you remember what day of the week it was? A. I sure don't.

Q. Do you remember what time it was, day or night? A. 9 o'clock at night.

Q. 9 o'clock at night. Who was present when you were questioned -- strike that. Were you questioned by Mr. Carter pertaining to your activities in the whisky business? A. I wouldn't say questioned.

1191] Q. Were you questioned by Mr. Crawford? A. I was, sir.

Q. Was Mr. Carter present during all of that time? A. That's correct.

Q. How late was it when you were released from questioning that night? A. Some after 11 o'clock.

Q. Now, during the conference or the questioning by Mr. Crawford, did Mr. Carter participate in any of it? A. I say he talked but I don't -- not much; I don't know just what -- he did say.

Q. Do you remember any particular conversation that he had with Mr. Crawford in your presence that particular night relative to any liquor?

Mr. Crawford: If the Court please, I don't know what the line of reasoning is behind these questions, but there certainly wasn't anything improper happened there -- there certainly wasn't anything wrong with my --

The Court: Wait just a minute; do you care to interpose an objection?

Mr. Crawford: Well, I -- I -- I -- I -- I don't want to give the impression we are concealing anything.

The Court: You can object or not object as you see fit.

1192] Mr. Crawford: Well, I will object.

The Court: Upon what ground?

Mr. Crawford: On the ground it has no bearing.

The Court: What is the purpose of this interrogation?

Mr. Ungerman: May I approach the Bench?

(Thereupon Mr. Ungerman and Mr. Crawford conferred with the Court at the Bench.)

Mr. Ungerman: That's all.

Mr. Crawford: Just one minute, please.
Would you approach the Bench, Mr. Gotcher?

(Thereupon Mr. Crawford and Mr. Gotcher conferred with the Court at the Bench.)

Mr. Crawford: That's all.

The Court: All right, that's all.

ERNEST McCARTY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Ernest McCarty.
Q. What is your business? A. Lumber business.
Q. Have you ever had any business transactions, Mr. McCarty, with Tex Rucker, and Don Rucker? A. Yes.
Q. Do you have any papers there that might reflect those 1193] transactions?

Now, Mr. McCarty, what type of transactions were these that you had with Mr. Rucker? A. Buying whisky I guess.
Q. All right, I have handed you what has been marked there as Government's Exhibit No. 11; I ask you to tell the jury what those are?

Mr. Gotcher: To which we object -- let the instruments speak for themselves.

The Court: Overruled.

A. Those are vouchers and checks -- accounts payable.
Q. All right, are any of those checks for amounts as high as $300?

Mr. Gotcher: Same objection; and we would like to be at least able to see the --

Mr. Crawford: When I offer them, Your Honor, --

Mr. Gotcher: Well, this is secondary evidence.

The Court: Objection overruled.

Mr. Gotcher: Let us have an exception.

A. Some of them are, yes, about that amount.

Q. (By Mr. Crawford) How many cases of whisky did you buy from Mr. Rucker at any one time? A. Well, I think maybe one most of the time. I ordered some, maybe a time or two, and -- not special brands but not the best, and not the worst, say, maybe two at a time, once or twice, but most of it, it
1194] was one case ordered.

Q. And you always paid him by check, is that correct? A. Yes, sir.

Q. Where did these transactions take place, Mr. McCarty, -- where did the transfers take place? A. Transfer of what?

Q. Transfer of the whisky and the check and the return therefor. A. The check was mailed to him and the whisky delivered to my office in most cases.

Q. All right, your office is located here in the City of Tulsa? A. Hunt Building, yes, sir.

Q. I hand you our exhibit No. 11, for identification, check No. 4497 in the amount of $340, dated December 23, 1949.

Mr. Gotcher: To which we -- pardon me.

The Court: Why don't you offer the exhibit in evidence first?

Mr. Crawford: I offer it at this time, Your Honor.

The Court: Any objection?

Mr. Gotcher: No, except we would like to see it, see if --

We object to it as being incompetent, irrelevant, and immaterial.

1195] The Court: Overruled. Now you may continue your interrogation on the particular check you had picked out.

Q. (By Mr. Crawford) On this particular check, Mr. McCarty, do you recall how many cases of liquor that purchased by that check approximately? A. No, I couldn't tell you. May I explain this here a little bit?

The Court: Yes, you may.

A. We happened to have a charge account and we paid him when we got ready, or else he wanted the money. We didn't pay on delivery.

Q. You didn't pay on deliveries; you would on some occasions, would you not, order more than two or three cases to be delivered individually? A. No, I would say two -- not over two at any one time; that was some very special plan -- most of this here was for -- may I explain a little bit -- for holidays, but, I don't remember three or four at a time.

Q. From November was there three or four at a time? A. No.

Q. On these that you ordered two at a time, would some of those be pints or half pints? A. Most of them were fifths; we bought pints a few times, but not half pints.

1196] Mr. Crawford: You may inquire.

The Court: Any cross-examination?

Mr. Hickman: No questions.

The Court: May this witness be excused from further attendance?

Mr. Crawford: As far as we are concerned, Your Honor.

The Court: You will have to leave those records here but they will be in custody of the Clerk; they may be withdrawn after the case is closed.

Mr. Crawford: If the Court please, may we recess at this time to locate a witness?

The Court: All right, we will recess for fifteen minutes.

* * * * *

Jay L. Jones et al. vs. United States of America

1197] JAMES F. O'BRIEN, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. O'Brien, you were associated with Archie Moore in the liquor business for a period of about four years, 1952 to 1956, were you not? A. 1952 until about '55.

Q. 1955. Did you ever operate a place at 115 South Cheyenne? A. Yes, sir, I did.

Q. And was that at a time when you were in partnership with Mr. Moore? A. No, sir.

Q. Did you operate that place by yourself? A. Yes, sir.

Q. From whom did you buy your liquor at that time? A. Martin Edwards.

Q. And about how much were you buying from Martin Edwards at a time? A. Well, I would say probably five to six or seven cases.

Q. And where were the deliveries made? A. Well, he would make them there at the garage, sometimes twice a day.

1198] Q. That is, Buck's Garage? A. Yes, sir.

Q. When did you sell or remove yourself from an interest in, Buck's Garage? A. The latter part of -- the first part of '56, about January, '56, along in there.

Q. Now where was Martin Edwards living at the time that you were buying these several cases of liquor from him? A. I don't know, sir; I was never at his house.

Q. Where did you place the call? A. I placed it to his home all right, but I don't know exactly where he was living.

Q. Do you recall the number? A. No, sir, I sure don't.

Mr. Crawford: That's all.

Cross-examination by Mr. Malloy

Q. I believe you say that you placed certain orders to Martin, is that right? A. That's right, sir.

Q. And these deliveries were made at this Buck's Garage? A. Yes, sir.

Q. But you weren't there every time deliveries were made were you Buck? A. No, sir.

Q. These orders, you would make an order in the lump sum
1199] for four or five cases, and deliveries would be in smaller amounts though, wouldn't they? A. They would be inconsistent, yes, sir; sometimes I would put an order in and, it might be three or four days before you got it.
Q. Just came in dribbles? A. Yes, sir.

Mr. Malloy: That's all.

Mr. Crawford: That's all.

The Court: Let me be sure that I understand what was the last date approximately upon which you made a purchase from Martin Edwards.

A. I believe it was in -- it was the first part of '56; I'm not exactly sure, but it was the first part of 1956.

The Court: All right.

Cross-examination by Mr. Hickman

Q. You say -- you say that was the lat time you purchased from him? A. Yes, sir.

Mr. Hickman: That's all.

The Court: That's all.

1200] ARCHIE MOORE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Moore, have you ever purchased any liquor from Martin Edwards? A. Yes, sir.
Q. And over what period of time did you purchase that liquor? A. That was in the last part of '55, sir.
Q. And over a period of several months or a few months? A. About three or four months, sir.
Q. And how much -- how large quantities would you buy

from him at one time? A. Oh, it was anywhere from three to eight cases.

Q. And where were the deliveries made? A. No certain place; he would call me and I would meet him someplace; it was different places each time.

Q. Did you ever call him at his home at that time? A. Yes, sir.

Q. And do you know where his home was then? A. At that -- yes, sir, the only way I knew was I saw the address in the paper.

Q. You saw the address in the paper? A. Yes, sir.

1201] Q. At that time? A. Yes, sir.

Q. What address did that state?

Mr. Malloy: If Your Honor please, I don't think that's the best evidence; I object to it.

The Court: Sustain the objection.

Q. (By Mr. Crawford) Now, Mr. Moore, directing your attention to the spring of 1956, did you have any occasions to have conversations with Bill Edwards? A. Yes, sir.

Q. Did any of those conversations involve a discussion of money? A. Yes, sir.

Q. And would you relate to the jurors please -- that first discussion relating to money with Bill Edwards. A. He called me on a Sunday from the Wayne Hotel; I was at home. And asked me if I would meet with him to talk to him on me giving some money for protection.

The Court: Now what month was that, if you recall?

A. That was the firstof June, sir.

The Court: First of June of what year?

A. '56.

The Court: 1956.

A. Yes, sir.

The Court: All right.

1202] A. And I told him that I would meet him on Monday the following day and talk with him. So, I was at the Wayne Hotel on Monday and he called me from home and asked me if I was ready to talk to him and I told him, yes, to come on up; and he dropped by and picked me up in his car from the hotel and we pulled down on First Street between Cincinnati and Detroit on First and sat in the car and discussed the set-up, and liquor pay-off, and the City, and he told me that it would be two hundred -- $200 for a month on the Wayne Hotel. So I gave him the $200 for the month of June. And then later that month I asked him about opening up another place and he said, yes, go ahead, and get it; it was 407 South Denver. And I paid him $200 for 407 South Denver, the First of July in 1956, and then I paid him $200 for the Wayne Hotel the first of July 1956, and after that he told me the deal was off.

Q. Was this money always delivered in cash, Mr. Moore? A. Yes, sir.

Q. And you did not obtain a receipt for it? A. No, sir.

Q. Now, after Bill Edwards called you and told you the deal was off, did anybody else contact you with regard to that deal? A. Yes, sir.

Q. And who was that that contacted you? A. Tommie Peterson.

Q. And did you have a conversation with him at that time? 1203] A. Yes, sir.

Q. And where did you have that conversation? A. That was down at 407 South Denver.

Q. And you were running that as a walk-in at that time? A. Yes, sir.

Q. Selling liquor there? A. Yes, sir.

Q. And would you relate that -- well, first, when did that conversation take place; was it in July, August or what month? A. It was on the 4th of July.

Q. All right, would you relate that conversation you had with Tommie Peterson there at 407 South Denver to the jury, please? A. Well, he told me that he believed he could go ahead -- I talked with him and told him that the deal was off with the city and he said that he could go ahead and take care of me on the same deal that Bill was -- Bill Edwards, and he taken the money for the Wayne Hotel.

Q. How much money did you give him for the Wayne Hotel? A. $250.

Q. And you gave it to him on that date? A. Yes, sir.
Q. All right, was that money in cash? A. Yes, sir.
1204] Q. All right, what did he say next? A. He said he would check and see if that one at 407 could be -- a deal might be made on it, too. And then he told me that he couldn't go ahead and accept the money on 407; it was --
Q. Now, did he tell you that the same day, the 4th of July, or was that a later date? A. That was later, sir; he checked on it and at a later date told me that he had better not take any money for 407.
Q. Is 407 relatively close to the Tulsa County Courthouse? A. Yes, sir.

The Court: Did he tell you why he wouldn't take money for the 407 address?

A. Well, not definitely, sir.

The Court: Well, what did he say about it?

A. Just said that he believed it was too close to the Cimarron and to the County Courthouse.
Q. Now, did you ever have a conversation with Paul Livingston with regard to 407 South Denver? A. Yes, sir.
Q. And where did that conversation take place? A. Down at the police station.
Q. And do you recall the approximate month that that
1205] conversation took place? A. That was in the latter part of July, sir.
Q. Was that before or after Peterson called you back and told you that 407 wouldn't go because of the Cimarron and the Courthouse? A. That was after.
Q. All right. And will you relate this conversation to the jury, that took place between you and Paul Livingston.
A. I just asked Paul if there would be any chance of me going ahead; that I had spent quite a bit of money down to 407, to get it opened up. And he said that at the time he couldn't tell me for sure; he would have to check on it. And he was to let me know, and didn't, and some few days later I called him back and asked him and he said that he didn't believe that we better try that down there.

Q. Did this conversation take place in his office at the police st tion or out in the hall? A. That was out in the hall, sir, when I first talked with him.

Q. All right, did you ever have a conversation with Tommie Peterson with reference to 407 South Denver over the telephone? A. Yes, sir.

Q. All right, and where were you when you called him over the telephone at 407? A. I was at 7104 East Pine.

Q. And will you relate to the -- or do you know the
1206] approximate month of that conversation? A. That was right along about July or August.

Q. All right. Now was Peterson at his home, or someplace else? A. He was at home, sir.

Q. All right and did you call him or did he call you? A. I don't remember definitely, sir.

Q. Will you relate that conversation by telephone that you had with Tommie Peterson to the jury, please. A. I asked him if he thought that he could get 407 back -- started back selling there again and he said that he didn't know, that we might could get it back in operation.

Q. Now all during this time you were paying on the Wayne Hotel, is that right? A. Yes, sir.

Q. All right. Then did you have any additional conversation with Peterson by phone that day? A. Yes, sir.

Q. And what else did he say? A. I asked him about a car that I had that I was selling out of, up at the Jereco Club -- delivering about. He said he would check on that and see if we could let it go in. I didn't want to pay $250 for it. He said he would check on it and see if we could let it go just as
a car did; if we could get it to work in with that place
1207] on East Pine -- the two of them together; and he said he would check on it a little and let me know and I called him back and he said, --

Q. Now, wait just a moment; that was the end of the conversation you had with him at that time, is that correct? A. Yes, sir.

Q. Now you mentioned a car at the Jereco Club; would you explain that in more detail to the jury, please. A. We had a phone up at the hotel -- Wayne Hotel, and the customers at the Jereco Club would call for a bottle of whisky, and when they would call we would take the car and go down there and park it and sell it out of the car to the customers at the

Jereco Club.

Q. And what would have been the price to cover that car for protection as a car? A. That would have been $100.

Q. All right now, after you left this location on Pine did you have occasion to drive by the Peterson's house? A. Yes, sir.

Q. And what did you see as you drove by the house? A. I saw a green Oldsmobile setting there, which I think belonged to --

Mr. Smith: Just a moment I object to what the witness thinks.

1208] The Court: I will sustain that objection. Tell us what you saw, not who you thought it belonged to.

A. I saw a green Oldsmobile sitting there that belonged to Cliff Wells.

Q. All right. Where did you go after you went by his house? A. I went on to 1619 North Denver to my home.

Q. Did you make a phone call when you reached your home? A. Yes, when I got home.

Q. About how long did it take you to go from Peterson's house to your house? A. Between five and ten minutes, -- eight minutes.

Q. All right. And did you reach Peterson by telephone then? A. Yes.

Q. Will you relate that conversation to the jurors, please. A. I asked him if he had been able to find out anything on working the Jereco Club in with 7104 East Pine and he said that the man was there, he was talking with him now.

Q. Did he say anything else to you? A. That was about --

Q. Or was that the end of the conversation? A. That was about the end of the conversation.

Q. Then it was after that telephone call when he advised you that 407 couldn't go, is that correct? A. Yes, sir.

Q. Did he call you on the phone when he gave you that 1209] advice? A. Yes, sir.

Q. Both the Wayne Hotel and 407 South Denver are in the city of Tulsa, are they not, Mr. Moore? A. Yes, sir.

Q. And they were both operated as walk-ins, is that right? A. Yes, sir.

Q. During the time that you were paying the protection on the Wayne Hotel, were you raided by the city police? A. Yes, sir, and at one time in the last part of July I had paid Bill Edwards for July, and at the last part of July they raided -- the city raided and taken what merchandise I had and I called Bill Edwards and he came and brought my money back -- gave it back to me.

Mr. Crawford: All right, that's all.

Cross-examination by Mr. Malloy

Q. Now, Mr. Moore, at the time that you have testified here that you purchased some whisky from Martin Edwards in 1955, were you in partners with Buck O'Brien at that
1210] time? A. No, sir.

Q. When were you and O'Brien partners in the whisky business? A. In '53 -- 1953.

Q. Well, how about 1954? A. Early part of 1954.

Q. Well now then, when did you break up your partnership? A. Sometime in 1954.

Q. And in what part of the year 1955 was it you started buying from Edwards that you have testified to here -- Martin Edwards, that is? A. About the last half of 1956.

Q. '56 or '55? A. In 1955 -- about the last half of 1955, that I purchased whisky from Mr. Martin.

Q. Well now, are you sure that it was '56 or '55, Archie? A. It was '55.

Q. Well, did you start in June -- any particular reason you started buying from Martin in '55? A. He just contacted me for my business.

Q. And you just decided to buy whisky from him, is that right? A. Yes, sir.

Q. All right And would that have been in about June
1211] of 1955? A. Well, I wouldn't be for certain on that date. It was in '55, sir.

Q. Where were you operating at that time? A. I was at that time operating the Wayne Hotel.

Q. Where is that located? A. 211-1/2 East 2nd.

Q. Well, what kind of a hotel is it -- I mean, is it -- how big a place? A. Sixteen-room hotel.

Q. Is that a walk-in place? A. Yes, sir

Q. And your customers in other words were people that came in from the street, is that right -- that is what a walk-in place is, isn't it; you just sell to people that come in from the street? A. Yes, we sold to just almost every one.

Q. And you sell in pints or half-pints, mainly, don't you? A. Yes.

Q. In one bottle, half bottles and so on? A. Yes, pints, half-pints, fifths.

Q. Yes, sir, and your clientele, that is what they call just a plain little walk-in place, is that right? A. Yes, that's right.

Q. You say during that period in order to supply that
1212] type of trade that you were purchasing from Martin in large numbers, is that right -- cases? A. Not always, but most usually three to five -- six -- eight cases.

Q. Where would these cases be delivered to the hotel? A. No, they were delivered to different points throughout the city.

Q. Well, name us one. A. One was over by the Brady railroad tracks and sometimes at my home, 1619 North Denver.

Q. Let's go back -- back to the first place you say someplace over by Brady, is that right? A. Yes.

Q. How many times did he deliver whisky there to you? A. About twice.

Q. Were you there yourself? A. Yes.

Q. Anybody else with you? A. No.

Q. Just Martin, is that right? A. Yes.

Q. How many cases did he deliver to you that time? A. I don't recall the exact amount.

Q. When was it? A. I don't remember the exact date.

1213] Q. Okay, where was another delivery point? A. My home, 1619 North Denver.

Q. Did he make a delivery there? A. Yes.

Q. Anybody there besides you? A. My wife and little girl was there.

Q. Where was the delivery made, in front of the house or in the back? A. In my driveway, beside the house.

Q. Was your wife in the house or outside? A. Inside.

Q. Day or night? A. Night.

Q. How many cases did he deliver that time? A. There was quite a few different times.

Q. Well, give us the date of one

The Court: If you don't remember the date just say so.

A. I don't remember the exact date, no, sir.

Q. (By Mr. Malloy) You don't remember the date of any deliveries that Martin made to you, do you? A. No, sir, it was just daily deliveries.

Q. As a matter of fact, Archie, a lot of times deliveries were made by someone to your house, isn't that right, and you weren't even there? A. There could have been, yes, sir.

Q. Did you make any tabulation or log of how many cases 1214] were delivered to you? A. Nothing more than just ordering -- usually we had to order a certain amount before we could get it -- I mean, five, six, seven or eight cases.

Q. You don't know on any particular occasion how many cases were ever delivered to you by Martin Edwards, do you? A. Not the exact date, no, sir.

Q. Nor the exact amount? A. Not the exact amount, no, sir, except just on Christmas.

Q. Now during this entire time if I understand you, Archie, there wasn't anybody working for you or you weren't in partnership with anybody, is that right? A. No, sir.

Q. Well, did you have somebody working for you? A. Yes, sir.

Q. Who was that? A. Well, I had my brother Wayne; I had Owen Sellers, and Jim Duke.

Q. Jim who? A. Duke.

Q. Were they delivery boys for you? A. No, sir, we didn't have any delivery service.

Q. What were their duties? A. Working the walk-in business.

Q. Who paid Edwards for the delivery of this whisky? A. I, most usually.

Q. Did you pay by cash or by check? A. Yes, sir, cash and check.

Q. You have given him checks for whisky? A. Not my checks, but checks I had cashed for other people.

Q. Well, did you ever give him one of your own checks? A. I don't believe so, sir.

Mr. Malloy: I believe that's all.

Mr. Hickman: I want to ask this question:

Cross-examination by Mr. Hickman

Q. You have been in the liquor business now for about five years here, have you? A. Yes, sir, -- I was.
Q. You are not now? A. No, sir.
Q. When did you quit? A. December 4, 1956.
Q. Now then during all that time when was the first time you paid off, as you call it? A. Going away back, sir, I was working with Ed DeWeese and Cecil Boone, and I didn't have any dealings as far as paying off then. But in 1951 I first was in business for myself, that is when I first paid off.
1216] Q. All right, but you can truthfully say that from 1952, the spring of 1952 until at least in 1956 there was no pay-off?

Mr. Crawford: If the Court please, I object to that; the question is too broad I think it should be directed to this defendant.

The Court: Overruled. I think it is directed to the defendant. That is my interpretation of the question.

Mr. Hickman: It is what?

The Court: You are asking him if he paid off during that period.

Mr. Hickman: That's right, yes, sir.

A. '50 -- sometime in '52 until '56 I didn't pay off.
Q. And the first one who mentioned to you the idea of paying off was Bill Edwards, was that right? A. Yes, sir.
Q. That's your testimony? A. Yes, sir.
Q. And you believe that was in June of 1956? A. Yes, sir.
Q. You don't think it was before June? A. No, sir.
Q. Now then you said that up until sometime in '56 you
1217] bought your liquor from Martin Edwards; when did you cease buying from him?

The Court: Wait just a minute, I don't believe that was the testimony.

A. '55.

The Court: As I recall he said he bought from Martin Edwards during the latter part of 1955.

A. That's right.

The Court: O'Brien said he bought his whisky in '56.

Mr. Hickman: That's right; I beg your pardon.

Q. (By Mr. Hickman) Who did you buy liquor from in '56? A. Whom did I buy from?

Q. Whom did you buy from and who did you buy from, either way -- from whom did you buy your liquor? A. I bought from Bill Edwards and Charley Jones.

Q. Who? A. Charley Jones.

Q. Charley Jones. Now these deliveries were made at your house and over on Brady and at different places in order to avoid detection, were they, instead of being delivered directly to the Wayne Hotel on East Second Street. A. By whom?

Q. By Edwards brothers, either or both. A. Well --

1218] Q. Well, I will withdraw it and ask you this: How did you get the liquor when it was delivered out on West Brady or out on Pine Street or North Denver, how did you get it to the Wayne Hotel? A. Well, I would usually take it up there myself; I would drive up there myself.

Q. Well, when you would meet any one of these Edwards brothers out on the streets would you be in a car and the whisky would be transferred from the seller's car to your car? A. From Sellers?

Q. From the seller of the liquor to you? A. Yes, sir.

Q. Would it be delivered from one car, and stored in your car? A. Yes, sir, that's right.

Q. Then you would drive it to the Wayne Hotel on East Second Street? A. No, sir, I didn't take it directly to the Wayne Hotel.

Q. Well, wherever you took it? A. Yes, sir.

Q. You would take it to this final resting place for resale? A. Yes, sir.

Q. I want to know why you used that practice; was it to

avoid detection by the police? A. Not only the police.

Q. Or any officer? A. Or any one that might wish to
1219] steal the whisky.

Q. To steal the whisky. Well, did you think that there was more chance of having the liquor stolen from you if it was delivered to your hotel on East Second than it would be out there on the tracks near Brady? A. Not necessarily, no, sir.

Q. You really were trying to avoid detection by officers of the law, weren't you? A. There was a number of different officers that we had to be careful from, yes.

Q. Well, you were then making this type of exchange at night in remote places to avoid detection if it was possible to avoid it? A. Well, I just taken it whenever he brought it in, sir; whenever he got ready to bring it, it wasn't my choice of making, it was his.

Q. Did you know the reason he would set up these places of meeting was to avoid detection of him by the officers? A. Well, I didn't ever question him, sir, on his --

Q. You didn't ask him the reason why "we meet in the dark, last night'? A. No, sir, -- no, sir.

Q. You went out of the liquor business last December?
122] A. Yes, sir.

Q. Are you actually out of it? A. Yes, sir.

Q. Who operates the Wayne Hotel now? A. I don't know, sir.

Q. Were you operating it under a lease or as owner? A. At the time, under a month-to-month lease, sir.

Q. Who was the owner of the premises? A. Mr. J.O. Howard, Sand Springs, I believe.

Q. Well, was this a real rooming house or just a drop-in to buy liquor from? A. It was both, sir.

Q. Did you operate it as a rooming house? A. Yes, sir, I rented rooms.

Q. And then at the same time you were operating a place at 115 South Cheyenne? A. No, sir, one -- that was four --

Q. What? A. No, sir, that 215 South Cheyenne was much earlier.

Q. Well then you only had the place at the Wayne Hotel during this time I am speaking of? A. I -- at one time, yes, through the latter part of '56 -- latter part of '55, rather, and then in '56 I had a place at 407 Denver -- South Denver.

Q. How long did you operate that place? A. Just

1221] open a little over a month.

Q. Then you were running a whisky car in front of the entrance of the Jereco Bar Tavern? A. It is not a bar tavern, sir; it was where they danced -- they don't sell any beer.

Q. Where is the Jereco? A. That is at Third and Frisco.

Q. And it is a dance hall? A. Yes, sir, night club.

Q. Did you have anything to do with operating it? A. No, sir.

Q. But you supplied the patrons there with whisky by having a car in front, is that the idea? A. Yes, sir.

Q. Did you peddle whisky there yourself? A. Not all the time, sir.

Q. What did you do, hire some young man to do that? A. Yes, sir.

Mr. Hickman: That's all.

The Court: I believed you testified that you made a payment of $250 in July in 1956, is that right?

A. Yes, sir.

The Court: And you said you paid that to Tommie Peterson?

A. Yes, sir.

1222] The Court: How many payments -- that was -- I believe you testified that that was for protection for your operation at the Wayne Hotel?

A. Yes, sir.

The Court: How many payments did you make after that?

A. Five.

The Court: To whom were those payments made?

A. Tommie Peterson.

The Court: Each one was made to Tommie Peterson?

A. Yes, sir.

The Court: And were they made monthly after the July transaction?

A. Yes, sir.

The Court: And what about each time?

A. $250.

The Court: When did you make the last payment?

A. December 1, 1956.

The Court: And then you quit the whisky business?

A. December 4, yes, sir.

The Court: Although you were paid up in advance for that month?

A. Yes, sir.

The Court: All right, no further questions.

Cross-examination by Mr. Smith

1223] Q. Archie, when was it you say you passed by Tommie Peterson's house and saw an Oldsmobile sitting out in front of it?

The Court: I don't believe that evidence is admissible; I am going to advise the jury not to consider it.

Mr. Smith: I was preparing to move that it be stricken.

The Court: But you may inquire about it further if you care to.

Mr. Smith: If the Court feels that it is not admissible I don't care to inquire about it. We are moving that it be stricken. He made a hasty reply after I objected and after the Court had sustained it was the only reason I was interrogating him.

The Court: I am going to advise the jury not to consider the evidence, in the first place the evidence is not in my judgment admissible to establish that the defendant Wells was at the home of Peterson at the time. The only thing to establish it is the testimony of the witness that he recognized the green automobile parked there as being the one owned by Wells. And it is not -- the evidence is not sufficient to establish that any conversation had with -- by this witness with Peterson over the telephone was conversation in the presence of Wells, and it would be hearsay testimony as to Wells. And from both standpoints I think the evidence is inadmissible and should not be considered.

1224]

Mr. Malloy: May I just ask one question more, Your Honor?

Cross-examination by Mr. Malloy

Q. Archie, directing your attention back to 1955, when you say you were buying from Martin, -- A. Yes, sir.

Q. And you were operating the Wayne Hotel as a walk-in? A. Yes, sir.

Q. How many bottles a day would you say you sold down there, do you have any idea? A. About one hundred -- it would average about one hundred thirty, one hundred forty, something like that.

Q. Now what are you speaking of, pints or half pints or fifths? A. Both, yes, sir, -- just both -- it was mostly half pints.

Q. Mostly half pints, is that right? A. Yes, sir.

Mr. Malloy: That's all.

The Court: That's all.

Mr. Crawford: I would like to inquire if I might, Your Honor.

1225] Redirect Examination by Mr. Crawford

Q. You stated on cross-examination, Mr. Moore, to the effect that you did remember the exact amount on Christmas that you bought from Martin Edwards, is that right? A. Yes, sir.

Q. What was the exact amount? A. That was twelve cases.

Q. Why did you got out of the liquor business on December 4 after you had paid up for the month? A. Well, on December 4, -- on December 1st I paid up through the month and on December 4, I accepted Christ, and got into church, quit the whisky business, never did go back to either location, and on December -- on the 1st of January I went into the restaurant business and have been there since.

Mr. Crawford: That's all.

The Court: Any further questions?
That's all.

Mr. Malloy: Wait just a minute.

Cross-examination by Mr. Malloy

Q. Was it December of '56 or December '55 you quit? A. December of '56.

Q. And you say now that you remember after Mr. Crawford's question for the first time you remember now that you sold or rather purchased some twelve cases from Martin in December, or Christmas 1955? A. '55, yes.

1226] Q. Do you mean, for the entire Christmas season, that, ever what day Christmas was? A. That was on Christmas day, yes.

Q. On December 25? A. Yes.

Q. Where was this delivery made? A. That was made out in Osage, 36th Street North, up in Osage.

Q. You mean Osage County? A. Uh huh.

Q. Who was present? A. Buck O'Brien, and Martin Edwards and myself.

Q. And in what kind of a -- what kind of a car did you have? A. '55 Pontiac.

Q. And was it -- what kind of a car did Martin have? A. I don't remember, sir.

Q. Well, was it daytime or nighttime? A. Early in the morning.

Q. Well, what do you mean, early in the morning? A. Just daybreak.

Q. What street? A. 36th Street North.

1227] Q. And you and Buck and Martin met there, is that right? A. Yes, sir.

Q. And he transferred to you how many cases? A. Twelve.

Q. You are sure of the exact number? A. Yes, sir.

Q. And what was the -- pints, half-pints, fifths or what? A. Mixed up.

Q. How many half pints? A. I don't remember, sir.

Q. How many pints? A. I don't remember.

Q. How many fifths? A. I don't remember.

Q. Were those in boxes or lugs? A. They were all lugs.

Q. No boxes? A. No boxes.

Mr. Malloy: That's all.

The Court: That's all.

Mr. Crawford: That's all, Mr. Moore.

1228] BEN LEONARD BLY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Ben Leonard Bly.

Q. Mr. Bly, you have been engaged in the liquor business in and about the City of Tulsa for a number of years, have you not? A. Yes, sir.

Q. Now, Mr. Bly, directing your attention to May of 1956, do you recall a telephone conversation with Bill Edwards? A. Yes, sir.

Q. Did you place that call or did he? A. I don't remember.

Q. Do you recall the approximate day of the month, was it early May, late May, or the middle of May, to the best of your recollection. A. Approximately the middle of May.

Q. All right. And what was what conversation about? A. What do you mean?

Q. Well, do you recall the conversation? A. Yes, sir.

Q. Will you relate to the jury to the best of your

recollection the conversation that took place between you and Bill Edwards at that time? A. No, I don't remember any of it.

Q. Do you remember anything he said to you? A. No, I 1229] don't.

Q. All right. Do you recall the topic of the conversation? A. Well, it was probably that he wanted me to come by his house.

Q. Well, did you then go by his house? A. Yes, sir.

Q. All right. And was that the same day or soon thereafter? A. Well, I couldn't recall; that was probably the same night or probably --

Q. And then did you meet him at his home? A. Yes, sir.

Q. And where in his home, in the living room? A. Yes, sir.

Q. And did you have a conversation with him at that time? A. Yes, sir.

Q. Was there anybody else present? A. I believe his wife might have been present.

Q. All right. Now what was that conversation, Mr. Bly, will you relate that please to the jurors. A. Well, he said it would cost me about $200 a month to run.

Q. And what kind of a liquor business did you have at 1230] that time, a walk-in or delivery? A. Retail liquor business.

Q. You had a retail liquor business? A. Yes, sir, car delivery.

Q. Did he tell you $200 a month was $100 a car, or minimum, or what? A. He said it would be $100 a car.

Q. And did you have two cars? A. I had one for myself and one for the delivery boy.

Q. And did you -- did you have any other cars? A. Yes, sir.

Q. And did you try to make arrangements to pay on those? A. No, sir.

Q. Why didn't you try to do that? A. Well, I didn't see that it was necessary.

Q. All right, did you deliver any money to Bill Edwards at that time? A. Not until May 16th, I gave him $100.

Q. Do you recall where that delivery took place? A. At his home.

Q. And did you give him anything else at that time; did

you give him a description of the cars? A. Yes, he took the description of both cars and --

Q. Now, during the time that you paid him $200, and covered those two cars, Mr. Bly, were they picked up by
1231] the city raiding squad, Cole, Jackson, or Harp? A. Well, we were picked up in May but I don't know what date.

Q. Well, was it before or after you paid the $200 to Bill Edwards? A. Well, I only gave him $100 in May.

Q. Only $100 in May? A. Yes, sir, that is for half a month.

Q. Do you recall whether it was before or after giving him the $100 that you were picked up? A. Well, I would have to check the record; I don't know.

Q. All right, did you pay any additional money to Bill Edwards? A. Around April 1st I gave him $200.

The Court: That was back prior to the election, is that right?

A. I don't know.

Q. (By Mr. Crawford) Where did that delivery take place? A. No, it was May 1st I gave him $200; it was April 16 that I gave him the $100.

Q. Well -- A. I thought April came after May.

Q. Well, let me get it straight in your mind; when was the first time you gave him any money? A. Well, it was April 16; I am sorry.

1232] Q. How much did you give him at that time? A. It was $100.

Q. Where did that take place, that transaction? A. That was in his house.

Q. All right, and when was the next time you gave him any money? A. It was around May 1st.

Q. And how much money did you give him then? A. That was $200.

Q. Where did you deliver that money to him? Where were you at the time? A. At his home.

Q. On each of those occasions you had two cars covered, or one? A. Two, on both times.

Q. Did you give any other moneys to Bill Edwards? A. No, sir.

Q. Did you have any conversations with him after you gave him the second money? A. I think on about April 28th he called me up and said, --

Q. Wait a minute, April 28th? A. No, May 28th.

Q. And what did he say at that time? A. Well, he said, that is -- that was all of it, that's the end of it.

Q. All right, directing your attention to June of 1956, 1233] did you have occasion to have a conversation with Martin Edwards? A. Yes, sir.

Q. And where did that conversation take place? A. Do you mean the first one or what?

Q. Well, where was the location, in town, on the street, in a building? A. Just east of Tulsa.

Q. Did the conversation take place in an automobile? A. I imagine so; I don't recall.

Q. Had you arranged to meet him out there east of Tulsa? A. Yes, sir.

Q. Was there anybody else present at that meeting? A. No, sir.

Q. And did you have a conversation with him at that time? A. Yes, sir.

Q. And will you relate that conversation to the jurors please. A. Well, all it boiled down to, that he was just taking Bill's place.

Q. Did you give him any money? A. No, sir, not at that time.

Q. All right, when did you deliver any money to him, if 1234] ever -- when was the first time? A. Probably around June 4th.

Q. And do you recall how much money you gave him at that time on June 4th? A. Around $200.

Q. Did you give him a description of the cars? A. No, he didn't ask me for it.

Q. Did you ever give him a description of the cars? A. No, sir.

Q. Had you changed cars? A. No, sir.

Q. Not since the time you paid Bill, is that right? -- All right, how much longer then did you pay money to Martin Edwards? A. Well, it was every month up until January, I believe '57.

Q. And did you pay him $200 every month up until January '57? A. Yes, sir.

Mr. Malloy: If Your Honor please, I object to the leading manner of the United States Attorney.

The Court: Objection overruled.

Mr Malloy: Exception.

Q. (By Mr. Crawford) And where was -- where did these transfers usually take place, Mr. Bly? A. Well, I would just meet him anywhere east of town.

1235] Q. Did he call you or you call him to set up the meeting place? A. Well, it could have been either way; I could have called him or he called me; I don't recall.

Q. Were the moneys always transferred in cash? A. Yes, sir.

Q. Was a receipt ever given? A. No, sir.

Q. Do you remember where you made your last payment to Martin? A. Well --

Q The one for January 1957? A. Well, it might have been at his truck stop, I am not sure.

Q All right, during this time, Mr. Bly, when you were paying the monthly payments to Martin Edwards, were you ever raided by the raiding squad, which consisted of Leo Jackson, Johnnie Cole and Jim Harp? A. No, I don't recall it.

Q. Mr. Bly, was there anything ever in the agreement about the price of whisky? A. There was with Bill Edwards.

Q. But there wasn't with Martin? A. No, sir.

1236] Q. What was the agreement with Bill Edwards? A. I think straight was fifteen a lug, and Bourbon, nineteen and a half, per fifths.

Q. Mr. Bly, during July 1956, were you apprehended by the sheriff's office -- you were apprehended by the sheriff's office, were you not? A. Yes, sir.

Q. Where were you apprehended? A. At home.

Q. Were you raided by them at that time? A. Yes, sir.

Q. Were you arrested? A. Yes, sir.

Q. Were you taken down to the county courthouse? A. Yes, sir

Q. Who were the deputies that raided you, do you recall their names? A. I don't recall the time; I think one of them was Ray Pruitt.

Q. Could it have been on or about July 28, 1956?

A. Yes, sir, on Saturday morning.
Q. Was a charge filed against you? A. Yes, sir.

Mr. Page: I object to this as incompetent, irrelevant and immaterial, no probative value as far as this inquiry is concerned.

1237]

The Court: Overruled.

Mr. Crawford: I intend to --

The Court: The objection is overruled.

Q. (By Mr. Crawford) You say a charge was filed against you? A. Yes, sir.
Q. All right now, Mr. Bly, did you employ an attorney to represent you? A. Yes, sir.
Q. And did you have any conversation with Martin Edwards about that charge? A. Well, I hired an attorney I believe the next day and it must have been oh a week or two weeks that I talked to Martin about it.
Q. Who was the attorney that you hired the next day? A. Bill Powers.
Q. And what was your conversation with Martin a week or two weeks later? A. Well, I just -- I heard that I -- that Bill Edwards had three thousand --

Mr. Page: Objected to, what he heard.

The Court: Yes, just tell him what the conversation was that --

Q. (By Mr. Crawford) Did you tell Martin Edwards what

1238] you heard?

The Court: In other words, let me explain, Mr. Bly: You may properly state what you said to Martin Edwards and what he said to you.

A. Well, I asked him if there was anything he could do about that because, I mean, the county case.

The Court: You asked Martin Edwards if there was anything

he could do about it?

A. Yes, sir.

Q. (By Mr. Crawford) What did he say -- what did Martin Edwards say? A. Well, he shook his head, he said it was very remote that he could do anything, but he would try.

Q. All right, did he talk with you about it again? A. Yes, sir.

Q. And did he talk with you further about it at that time? A. No, he said he would see what he could do.

Q. All right, when was the next time you had a conversation with Martin Edwards with reference to that case? A. I believe probably a week later.

Q. And do you recall where that conversation took place? A. I believe we just met in a car and talked about it.

Q. All right. And you say a week later then, would that have been sometime in June of 1956?

The Court: No.

1239] Q. (By Mr. Crawford) I mean August 1956? A. Well, it was after the case went through the Common Pleas Court and then it went to -- it was before it came up in District Court.

Q. Was the charge a misdemeanor at that time or a felony? A. It was a felony.

Q. All right, and then when you had this conversation with Martin Edwards the second time about the case, what did he say? A. Well, I asked him -- that I would like to get rid of the case, and the best I could --

Q. What did he say to you? A. Well, I figured it would cost me maybe $250, something like that.

Q. Did he tell you what it would cost? A. Well, let's see, a little later on he told me it would cost me $1000.

Q. Did he say who he was going to deliver the $1000 to? A. No, sir.

Q. Did you give him the $1000? A. Yes, sir.

Q. Was it in cash? A. Yes, sir.

Q. All right. And now, Mr. Bly, did you have any further conversation with Martin Edwards about that charge? A. Well, he said they would probably try to dismiss it. That's all I know.

1240] Q. And was the case passed from time to time? A. I believe it was, several times.

Q. Did you talk with your lawyer about the charge? A. Bill Powers?

Q. Yes. A. Yes, sir.

Q. Well, did you retain him as your lawyer? A. Yes, sir, I retained him up until -- up until December, I don't know when the case came up, whenever it came up.

Q. What happened in December; do you recall the date in December? A. Well, several times when the case came up, I was sick once, and it was passed, and Bill Powers' father died and it was passed on another occasion. It was all passed on legitimate passes, I believe.

Q. Do you recall when the case came up in December, whether it was early December, middle December or late December? A. I believe it was December 11; I wasn't sure.

Q. Was the case disposed of at that time? A. Well, Bill said the best he could do --

The Court: Wait a minute -- wait a minute, don't tell what Bill Powers said to you; that would not be admissible. Was the case disposed of at that time?

1241] A. No, sir.

Q. (By Mr. Crawford) It wasn't disposed of at that time? A. Well, what do you mean -- well, I finally got thirty days.

Q. Well, when did you get thirty days? A. Well, whenever that case came up, I don't know just exactly the date on it.

Q. Was the date sometime in December or January? A. I believe it was in December -- no, it was after -- it was after Christmas, that's what it was; it was passed until after Christmas.

Q. Now, what happened to your $1000, Mr. Bly? A. I got that back.

Q. Who gave it back to you? A. Martin.

Q. All right. And when did he give it back to you? A. It was after Christmas.

Q. After Christmas? A. Yes.

Q. What did he say when he gave it back to you? A. He said there was nothing he could do for me.

Q. Had you had any conversations with Martin with regard to the $1000 or the case from the time you gave him the $1000 in August of 1956, until the time he gave it back to you in January 1957, or after Christmas 1956? A. Yes, I called
1242] him probably once or twice a week; I worried him to death about it.

Q. All right. Did he ever tell you there was anything he could do for you until he gave you the money back? A. I believe not -- I don't know.

Q. And were you in his home, or your home when he gave back the $1000, or were you someplace else? A. I believe he just met me in a car and gave it to me.

Q. Could it be possible that your case was called and you entered a plea of guilty on January 4, 1957 -- could that be the approximate date? A. Yes, that's right; it was passed until after Christmas.

Q. And you served -- you had a thirty-day jail sentence is that correct? A. Well, second offense, it was ninety at first, and then it was -- it was thirty when I got it.

The Court: What was that last statement; I didn't hear it.

A. It was thirty days, what I got.

The Court: Thirty days?

A. Yes, sir, $250 fine or more -- I don't know, -- no, it was $365, court costs and all.

Q. Mr. Bly, during the time that you were paying Bill Edwards and Martin Edwards were you buying your liquor from somebody here in Oklahoma? A. No, sir.
1243] Q. Were you importing it yourself from a place without the state? A. Yes, sir.

Q. All right, during that period of time did you ever buy any liquor in any quantities from Martin Edwards? A. Yes, sir.

Q. And about what quantities would you buy from Martin Edwards? A. It was around fifteen or eighteen bottles.

Q. Are those more or less fill-ins, when you needed them? A. Yes, sir.

Mr. Crawford: You may inquire.

NOTE

Note

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is missing from this
copy.

Q. Do you remember the -- I believe you testified that you bought in the quantity of fifteen or eighteen bottles, is that right? A. Yes, sir.

Q. When was the last payment you say you made to Martin
1248] Edwards, December of '56? A. December or January, I don't know which.

Q. You didn't give Martin -- you testified I believe that -- did you say on direct examination that you gave Bill Edwards a description of a car? A. Yes, sir.

Q. One car or two cars? A. That was the 1956 Chevrolet and my delivery boy's car; I don't know what kind it was.

Q. You don't remember what kind of a car that was? A. My delivery boy's?

Q. Yes. A. No.

Q. But you gave, as I understand, that description to Bill Edwards at that first conversation back there in May, or, rather, April 1956, is that right? A. Uh huh.

Q. You have testified you didn't give Martin Edwards a description of any car of yours, is that right? A. He didn't ask for it.

Q. And you didn't give it to him? A. No, sir.

Q. Just a minute -- by the way, did you give Martin Edwards any tag numbers -- any license tag numbers -- tag numbers for these cars? A. I don't believe I did, no, sir.

1249] Q. Mr. Bly, would you please tell me what your telephone number is at the present time, or do you have more than one? A. It is Temple 8-1512.

Q. Do you also have a telephone number Temple 5-2216? A. Yes, sir.

Q. And what is your address? A. 6921 East 5th.

Q. And did you have that telephone number, Temple 8-1512 at the time that you -- you are testifying to here? A. Yes, sir.

Q. And did you also have Temple 5-2216 at the time or period you are testifying about here? A. Yes, sir.

* * * * *

Cross-examination by Mr. Ungerman

Q. Mr. Bly, when was the last time you had any transaction or discussion with the witness John Bill Edwards?

A. I believe it was Wednesday night.
Q. Whereabouts did that conversation take place?
1250] A. At his home.
Q. And were you summoned out there by him? A. Yes, sir.
Q. All right, where did the conversation take place in his home? A. In the living room.
Q. Anybody present in the particular room except you and Mr. Edwards? A. I believe his wife and I -- one guest of theirs, some boy about eighteen.
Q. When you talked to him were they present? A. Yes, sir.
Q. And what was said by Mr. Edwards to you that night, that is, this past Wednesday night? A. Yes, sir.

Mr. Crawford: If the Court please, I object, I can see no reference to this case, this same type of cross-examination Mr. Ungerman has been conducting --

The Court: Overruled; I can't tell whether it is -- let him answer.

Q. (By Mr. Ungerman) Tell us the conversation that you had with him this past Wednesday night.
A. Well, he said, If we are ever going to do any good in the whisky business that he was going to have to get all the defendants convicted.
1251]
Mr. Ungerman: That's all.

Redirect Examination by Mr. Crawford

Q. Did he ask you to tell something that wasn't true?
A. Did what?
Q. Did he ask you to tell something that wasn't true?
A. No, sir.
Q. You testified before -- may I ask him with regard to his testimony before the grand jury, Your Honor?

The Court: No -- no, you may not.
You have told the truth in this case?

A. What?

The Court: You have told the truth in this case, have you not?

A. Yes, sir.

The Court: The statement made by Bill Edwards to you Wednesday night didn't affect your testimony in any way, did it?

A. No, sir.

The Court: Didn't cause you to change your testimony in any way?

A. No, sir.

The Court: Have you related this same state of facts before, or substantially the same state of facts before?

A. I related the same thing I said to the grand jury 1252] right here.

The Court: All right.

Mr. Crawford: That's all.

A. There is no difference.

Mr. Shortridge: I would like to ask the witness a question.

The Court: All right.

Cross-examination by Mr. Shortridge

Q. You say that you were in business for yourself during 1956? A. Yes, sir.

Q. And you were hauling liquor in from out of the state? A. Yes, sir.

Q. Were you buying your whisky in Missouri? A. Where?

Q. In Missouri? A. Yes, sir.

Q. You wouldn't tell this jury you were buying it from Don Gray would you? A. No, I didn't know Don Gray.

Q. You never had any dealing with him? A. No, sir.

Mr. Shortridge: That's all.

The Court: That's all.

1253] BILL MASSEY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Bill Massey.
Q. Mr. Massey, you have several brothers do you not? A. Yes, sir.
Q. What are their names, please? A. Dave and Bob and Johnnie and Ray and Ellis.
Q. Now, Mr. Massey, you have been engaged in the liquor business in and about the City of Tulsa for some period of time, have you not? A. Yes, sir.
Q. Do you know Bill Edwards? A. Yes, sir.
Q. Did you have occasion to confer with him during the early part of 1956? A. Yes, sir.
Q. Do you recall the particular month? A. April or May, one.
Q. All right, do you recall where the conversation took place? A. Yes, sir.
Q. And where did it take place? A. At Mr. Edward's
1254] home.
Q. And will you relate to the best of your recollection, please, the conversation that took place there in his home. A. In reference to what?
Q. Well, what was said, will you tell the jurors what was said there. A. Well --

The Court: Raise your voice a little, Mr. Massey; talk a little louder, please, sir.

A. All right. Well, he called me down there one day.

The Court: Are you talking about Bill Edwards called you?

A. Yes, sir.

The Court: And you went to his home?

A. Yes, sir.

The Court: All right.

A. And it was just before the election and he asked if I would want to give a little -- contribute to the election; and he said, if everything goes all right it would be to my benefit.

Mr. Hickman: I can't hear, Your Honor.

The Court: Repeat that, will you, and raise your voice.

A. He asked me if I wanted to contribute to the campaign, election, and if I did, if everything went all right why it would be for my benefit.

1255]

The Court: Whose campaign did he ask you? --

A. Well, it was the city election.

The Court: Well, there were several people running though?

A. Well, at the time he didn't mention no names.

The Court: Didn't mention any names to you?

A. No.

The Court: All right.

Q. (By Mr. Crawford) Did you contribute some money? A. Yes, sir.

Q. And how much money did you contribute? A. Well, the first time it was before the primaries, it was several hundred dollars -- I don't exact remember -- the exact amount, but it was seven or eight hundred dollars.

Q. And who did you obtain that money from? A. Part of it from Dave Massey, my brother, and part from Bob Massey, another brother.

Q. All right. And were they in the liquor business at

the same time? A. Yes, sir.

Q. And when was the next time then that you gave any money to Bill Edwards? A. I believe it was the next month; I don't remember whether it was -- whether it was general election or -- I believe it was just before the election.

Q. That is the city election where the police commissioner
1256] was elected? A. Yes, sir.

Q. Did you have a conversation with Bill Edwards at that time? A. Yes, sir.

Q. What did he tell you then? A. Well, he said everything looked all right, but the man -- but he said, the man needed some more television time, and the paper, money, and he said it looked good, if I wanted to go ahead and give some more money that everything would be in, in other words.

Q. And did you give him some more money at that time? A. Yes, sir.

Q. How much did you give him? A. Same amount, $700.

Q. And where did you get that amount of money -- where did you get it? A. From Dave Massey and Bob Massey.

Q. All right. Now, Mr. Massey, where were you operating your liquor business, at approximately that time? A. From home.

Q. And where was Bob operating, do you know? A. From his home.

Q. Where was Dave operating? A. His home.

1257] Q. Did you have any interest in Buck's Garage; was that entirely Dave and Bob? A. No -- Dave or Bob.

Q. Now, Mr. Massey, have you ever purchased any liquor from Bill Edwards? A. Yes, sir.

Q. Did you purchase as much as six to ten cases at one time from him? A. Yes, sir.

Q. Over what period of time, what number of years? A. Oh, possibly since '51.

Q. All right, have you ever -- did you -- have you ever purchased any liquor from Martin Edwards? A. Yes, sir.

Q. And over what period of time? A. I believe just -- about six or eight weeks, the best I remember.

The Court: When was that?

Q. (By Mr. Crawford) When did you start buying from Martin Edwards? A. It was in November.

Q. Of 1956? A. Yes, sir.
1258] Q. All right. A. Thereabouts.
Q. Had you ever bought any from Martin prior to that time? A. Not that I can remember.
Q. And did you buy from Martin as much as four to six cases at a time? A. I have ordered that much, yes, sir.
Q. All right now, Mr. Massey, this money you paid to Bill Edwards, carried you for how long? A. Well, I don't know; there was nothing -- I don't believe there was any time set.
Q. Well, did you ever pay any moneys thereafter? A. No, sir, I don't believe so. I believe that -- I just gave him money two times, I am pretty sure, best I remember.
Q. Do you know of anybody that was paying money for you thereafter? A. No, sir.
Q. Are you rather close to your brothers Bob and Dave? A. Yes, sir.

Mr. Crawford: That's all.

The Court: Any cross-examination.

Cross-examination by Mr. Malloy

Q. Directing your attention now to the period of six or
1259] eight weeks that you purchased your say from Martin Edwards, when was that again? A. It was in the -- I don't know exactly when I started; it was in November or December of '56.
Q. Of 1956? You testified that you have ordered four to six cases from Martin, was that at one time do you mean, you have put in an order for four to six cases? A. How's that?
Q. You put in an order of from four to six cases, is that right? A. That's right.
Q. Where would you put the orders in from, Mr. Massey? A. From home.
Q. Did you operate out of your home? A. Yes, sir.
Q. Where is that located? A. 517 South Wheeling.
Q. 517 South Wheeling; what telephone number do you have there? A. Now?
Q. Yes. A. It is --

Q. Is it Cherry 2-6666? A. Yes, sir.
Q. How long have you had that number, Mr. Massey?
1260] A. Oh, a couple of months.
Q. When you ordered those cases from Martin, where would deliveries be made? A. Oh, different places.
Q. Well, he didn't deliver -- you are not testifying he delivered the four or six cases, that is, what you ordered, you would hope to get a case or two occasionally, wouldn't you?
A. Well, maybe I better clear this up. I would meet him and get it, but it wasn't -- I wouldn't -- that wasn't for myself alone.
Q. In other words, for yourself you would just be getting a case or two, or a case and a half, something of that nature?
A. Yes.
Q. And this other was for some other people, is that right? A. That's right.

Mr. Malloy: That's all.

Cross-examination by Mr. Hickman

Q. Did you pay Bill Edwards money, only the two times?
A. The best I remember I think it was twice.
Q. March and April, is that what your testimony was?
A. It wasn't March I don't believe -- it was April or May.
Q. Well, did you pay the money twice in two separate months? A. Yes.
Q. You -- which is the first month, your best recollec-
1261] tion? A. April, I believe.
Q. Well now, do you remember the date of the first primary? A. No, sir, I don't.
Q. Do you remember when the city election, the general election was held? A. Not the dates, no.

The Court: He testified that both payments were made before the election -- isn't that right?

A. Yes, sir.

Q. (By Mr. Hickman) And you never paid any more money after that? A. No, sir.

Mr. Hickman: That's all.

The Court: That's all -- do you want to ask him anything further?

Mr. Crawford: No, Your Honor, I have no further questions.

The Court: All right, that's all.

Mr. Crawford: I might ask one question, if you don't mind, I intended to ask after Mr. Malloy finished his examination.

Redirect Examination by Mr. Crawford

1262| Q. Will you state that when you ordered whisky from Martin you would pick it up, and only a certain part would be for you, is that right? A. Yes, sir.

Q. Well, did you pick up the parts for the other people at the same time? A. I would pick up for Dave, and Bob, and they would pick up for me, too.

Q. Then you would place an order covering all of them, is that right? A. Yes, sir.

Q. So the orders would be for more than just a case or two? A. Yes, sir.

Q. All right, did you buy any from Jack Edwards?

A. Yes, sir, I ordered a little bit off of Jack.

Q. Was that after Martin went out of town? A. That was at the end of December, or January, somewhere along there.

Q. Very likely in January was it not? A. Yes, sir.

The Court: January of this year?

A. Yes, sir, '57.

Q. And did you buy from Jack because he was working for Martin or did you try to deal with somebody as a new seller?

A. Well, Jack was taking care of Martin's business.

1263|

Mr. Malloy: I object to that, if Your Honor please, unless he knows.

The Court: Objection overruled.

A. Jack was taking care of Martin's business and I was continuing to call him.

Mr. Crawford: That's all.

The Court: How much did you buy on any one occasion from Jack in January of this year?

A. Well, I would order four or five cases but he never would bring me but two.

The Court: Talk into the microphone.

A. He would bring a case and a half or two cases.

The Court: You would order four or five and he would bring a case and a half or two cases at one time?

A. Yes, sir.

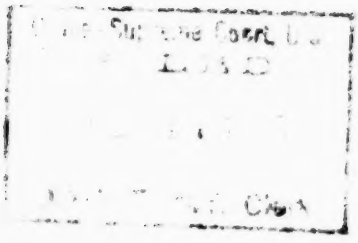
The Court: Would you eventually get the entire order?

A. Yes, I would eventually get it.

The Court: It would take two or three deliveries to get the full amount ordered?

A. That's right, sir.

The Court: All right, that's all.



No. 788

TRANSCRIPT OF RECORD

United States Court Of Appeals

TENTH CIRCUIT

Nos. 5678 to 5693,

inclusive

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Volume No. V -- Pages 725 - 978

Appeals From The United States District Court
For The Northern District of Oklahoma

Filed July 30, 1957

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1264] PAUL H. VAWTER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is Paul H. Vawter, is that right? A. That's right.

Q. Now, Mr. Vawter, you have been in the liquor business here for a while, have you not? A. That's right.

Q. When did you start? A. October 8, 1956.

Q. And do you know the defendant Lee Johnson? A. I do.

Q. Did you previously work for him at one time? A. I did.

Q. And how long did you work for him, Mr. Vawter? A. Oh, off and of for about eighteen months.

Q. What type of work did you do for him? A. I was a delivery man.

Q. And were you the only delivery man he had, or were there more than one? A. Oh, at times I was the only one; at times there was another one.

Q. From where would Mr. Johnson get his liquor? A. I have no idea.

Q. Did he have a location he loaded your car from?

1265] A. No, he met me on the street and loaded my car.

Q. Never took you to his plant? A. No, sir.

Q. How did you know who to deliver the liquor to? A. I got my orders over the telephone.

Q. And where was the telephone located? A. All over town.

Q. You mean you would call in to his home? A. That's right.

Q. Or some central place? A. That's right.

Q. Pick up the order and then go on, is that right? A. That's right.

Q. Now, Mr. Vawter, did you ever make any large deliveries for Mr. Johnson? A. What do you call, by large?

Q. Well, three or four cases? A. No, sir.

Q. Ever make one as high as a couple of cases? A. No, sir, I never took care of but case orders.

Q. You were just primarily what they might call a pint pitcher, is that right? A. That's right.

Q. Then did you decide to go into the business for

yourself, is that why you opened your own -- A. Yes, sir.
Q. Own place. And how many automobiles did you operate, 1266] Mr. Vawter, on your own? A. Just my own.
Q. How many months did you stay in business -- or are you still in business? A. I am still in business.
Q. Now, Mr. Vawter, did you have occasion to pay any moneys for anything besides liquor to Mr. Johnson after you went into your own business? A. I did.
Q. And when was the first time you paid him any money? A. The first time was the first part of November.
Q. And where did the payment take place? A. I don't remember correctly; it was on the street someplace.
Q. And how much money did you deliver to Mr. Johnson? A. $100.
Q. And what was that money for? A. Well, I had some heat on me and I was trying to get it off.
Q. You mean by "heat" you had some raids? A. That's right.
Q. And did you have a conversation with Mr. Johnson at 1267] that time? A. At the time I met him.
Q. Yes, about the $100 or how to get the heat off. A. Well, I asked him if he couldn't do me some good -- get a little bit of the heat off of me.
Q. And what did he say? A. He said he would try.
Q. And is that when you gave him the $100 or did you give him the $100 later? A. No, that is when I gave him the $100.
Q. All right, did you give him $100 any month thereafter? A. Yes, sir.
Q. And which month was that? A. December and January.
Q. You made your last payment in January? A. That's right.
Q. Were all of them $100 payments? A. That's right.
Q. Were they all made to Lee Johnson? A. That's right.
Q. Do you know who he was giving the money to? A. No, sir.
Q. Did he ever tell you? A. No, sir.
Q. Did that transaction succeed in getting the heat off 1268] for a while? A. Well, I hadn't -- I didn't get raided except by the county.
Q. Did Mr. Johnson tell you anything at the time with regard to Martin Edwards? A. Well, he -- I asked him where

I might be able to buy some whisky at; he said Martin might be able to take care of me.

Q. Did you buy your whisky from Martin? A. I did.

Q. And how much would you usually buy at a time from Martin? A. Oh, anywhere from a lug to a case and a half or two cases.

Q. And where would the deliveries of this whisky take place? A. In various parts, throughout the city.

Q. Would he call you and arrange for the meeting or would you call him? A. He would call, -- he would call me.

Q. Did you ever buy more than two cases at one time from him? A. No, sir, I never had that kind of business.

Q. But you did buy as many as two cases, is that right? A. I think so.

Q. Now when you paid this money to Lee Johnson did you give him a description of your car, or any kind of identi-
1269] fication of the car you were operating from? A. I don't remember now; I believe I might have.

Q. Did you meet him in your car, the car you were using at the time? A. Yes, sir.

Q. Do you remember particularly, Mr. Vawter, where in and about the City of Tulsa those payments may have taken place? A. I believe one took place around 15th and Boston and one at 32nd and Utica, one, 11th and Columbia.

Q. Now that one at 11th and Columbia, was that on a street or in a building? A. That was on the street.

Q. Now, Mr. Vawter, prior to buying from Martin Edwards who were you buying from? A. Bill Edwards.

Q. And that is when you were getting the heat on you? A. Well, I just -- I actually never had too much heat. I lost one load, however I had just started in business.

Q. All right, and since -- since you have been paying this money to Lee Johnson why you state you have been raided by the county but not by the city, is that right? A. That's correct.

Cross-examination by Mr. Hickman

1270] Q. Mr. Vawter, I believe you said you had worked for Lee Johnson, is that right? A. That's right.

Q. How long have you worked for Lee? A. Off and on for approximately eighteen months.

Q. You were familiar with his customers, were you not, Mr. Vawter? A. That's right.

Q. And his customers thought you were the delivery boy for him, is that right? A. Yes, sir.

Q. When you left his services in October of 1956, that was when you left, wasn't it, October '56? A. That's right.

Q. That wasn't what you would call a very pleasant parting was it? A. No.

Q. In other words, Lee Johnson had accused you had he not of taking his card list of his customers, and that if you went into business for yourself he was going to make it tough on you, is that right? A. Yes, sir.

Q. And it isn't unusual in the whisky business when a fellow leaves an employer like that that the person from -- for whom he used to work, after that person has left, that person to be hot called, is that true? A. That's right.

1271] Q. In other words, as a way of retaliation against an employee who leaves, sometimes a former employer will put in a call to the police and tip them off, is that right? A. It has been done.

Q. And as a matter of fact you called Lee Johnson two or three times after you had left and asked him about what -- for him to leave you alone, wasn't that it?

Well, you suspected that he was -- he had called this one raid on you, isn't that right? A. Yes, I had words with him about it.

Q. As a matter of fact you actually were only arrested once after you left, isn't that right -- isn't that the heat you are talking about? A. Yes, sir.

Q. Now, was that in a car or was it a place of business? A. I was in a car.

Q. And so you talked to Lee two or three times, about this problem and about your difficulties with him, is that right? A. That's right.

Q. He never told you that if you paid the money that he would see to it that you would get protection, did he?

A. Well, he just said he would try to get some of the heat off of me.

1272] Q. And of course so far as you were concerned, getting him off your back was getting off some of the heat, wasn't it -- just Johnson himself? A. Yes.

Q. And now you paid him as I understand it this $100

for two or three times, is that right? A. For three months.

Q. Did you sort of consider that kind of an insurance policy to keep Johnson from bothering you? A. Well, I figured it was worth the $100 a month not -- if I could get any heat off of me, yes.

Q. You did talk to him about buying the whisky, and you bought it from Martin, is that right? A. That's right.

Q. And in the quantities you have testified to?
A. Uh huh.

Mr. Hickman: That's all.

The Court: How do you spell you name, by the way?

A. V-a-w-t-e-r.

The Court: Beg pardon?

A. V-a-w-t-e-r.

The Court: During the eighteen-month period that you worked for Johnson were you ever arrested on a whisky charge?

A. No, sir.

1273] The Court: You say you worked for him eighteen months all together off and on; when did you first start to work for him if you recall approximately the first time you worked for him?

A. I don't know for sure; I think it was around February of '55.

The Court: February of '55?

A. Yes, sir.

The Court: Then you were working for him almost continuously for a period of eighteen months from the time you first started to work for him?

A. Yes, sir.

The Court: That's all.

Mr. Malloy: Let me ask one or two questions.

Cross-examination by Mr. Malloy

Q. Mr. Vawter, what is the address from which you take your business? A. 4724 South Cincinnati.

Q. Is that the place you have conducted your business since you went off for yourself? A. That's right.

Q. Your telephone number is Riverside 2-3000? A. That's right.

Q. Has been since you went into business for yourself?

A. That's right.

1274]

Mr. Malloy: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Vawter, you had a conversation with Mr. Johnson, Mr. Lee Johnson sometime during January or February, too, after you made that last payment, did you not? A. I have had several conversations with him since then.

Q. Well, at one of those conversations did Mr. Johnson say anything to you about the witnesses who might testify before the grand jury having a difficult time in the liquor business after this was all over? A. I don't believe so -- I don't recall that -- the topic of the conversation that we had --

Q. Well, did you ever discuss that possibility? A. I imagine everybody has.

Q. Well, I am asking you, Mr. Vawter, did you ever discuss it with Mr. Johnson? Or did he ever discuss it with you? A. I don't rightly know; I might have.

Mr. Crawford: That's all.

Mr. Malloy: No further questions.

The Court: All right, you may step down.

1275] JAMES CLARK WARREN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Your name is James Clark Warren? A. Yes, sir.

The Court: What is the name again?

Mr. Crawford: James Clark Warren, W-a-r-r-e-n.

Q. (By Mr. Crawford) Mr. Warren, you have been in the liquor business for a period of time here have you not -- a few months? A. Off and on.

Q. All right. A. Quite a while.

Q. Have you operated a place at 21-1/2 South Main? A. Yes, sir.

Q. How long have you operated there? A. Since about last -- well, I -- I was there and I sold it and then I came back about the first of last July.

Q. All right, do you know Bill Edwards? A. Yes, sir.

Q. Did you have occasion during the past year to pay moneys to Bill Edwards, Mr. Warren? A. Yes, sir.

Q. And what did you pay those moneys for? A. Well, he said, to help keep the law away from me, so I could operate.

Q. All right. And how much money did you pay him the first time? A. I only paid him one time and that was $200.

Q. Do you recall when that time was? A. It was on a Monday, I think about the 4th or 5th of June.

Q. All right, and did you have -- have any conversations with Bill Edwards after that time? A. No, he called on the phone but I wasn't there when he called, and said he couldn't do me any more good, that the deal was off.

Q. Do you know when that call was made? A. Oh, it was about a week before the last of June. I know it was about a week before the time was up.

Q. All right, thereafter did you -- have an occasion to talk with Martin Edwards? A. No, sir.

Q. Did he ever come by -- A. I heard that he came by but I wasn't there.

Q. Did you close out your business or what? A. No, I didn't close out then; I was in business until about five weeks ago, I closed up about five weeks ago.

Q. You were in business then constantly then from
1277] about May 1956 until five weeks ago? A. Yes, sir.
Q. That is the entire time? A. Yes, sir.
Q. Mr. Warren, was your business what you might call very flourishing or was it a rough time?

Mr. Malloy: Object to that, if Your Honor please, unless he states what --

The Court: Sustained.

Q. (By Mr. Crawford) Was your business successful, Mr. Warren? A. Well, I just got --

The Court: Well, I don't think -- if you want to ask him whether he was raided or not, that is --

Mr. Crawford: No, sir, that is not -- raiding isn't what I had in mind.

The Court: Well, off-hand I don't get the point. Perhaps you can explain it to me.

(Thereupon Mr. Crawford and Mr. Malloy conferred with the Court at the Bench.)

Mr. Crawford: That's all, Mr. Warren.

The Court: Cross-examine.

Mr. Ungerman: No cross.

* * * * *

1278] J.D. PITTS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. J.D. Pitts.

Q. Where do you live, Mr. Pitts? A. 1912 North Madison.
Q. Mr. Pitts, have you been engaged in the liquor business? A. Yes, sir.
Q. And for how long a period of time? A. Oh, eight or ten years.
Q. Do you know Theopolis Scoggins? A. Yes, sir, I do.
1279] Q. Will you tell the jury, please, about any and all moneys that you paid Theopolis Scoggins during the past year?

Mr. Patten: Object to that unless he states himself personally gave the money to Mr. Scoggins.

The Court: Objection overruled; I think the question calls for that sort of an answer.

A. I didn't understand the question.
Q. (By Mr. Crawford) You may tell the jury about any and all moneys that you paid to Theopolis Scoggins during the past year. A. Well, I gave him about $75 in all.
Q. Over how long a period of time -- in $25 payments? A. Well, I don't know exactly about that; I know I gave him money twice.

Mr. Shortridge: I can't hear the witness.

The Court: Can the jury hear the witness?

A Juror: Not very well.

The Court: You are going to have to raise your voice, talk loud enough so everybody can hear you.

A. I say I gave him money twice.
Q. (By Mr. Crawford) Where did you give it to him? A. I didn't give it to him direct; I sent it by a boy.

Mr. Patten: We object and ask that all the testimony be stricken on the part of this witness -- he said he sent it by a boy -- unless it is connected.

1280] The Court: Wait just a minute.
To whom did you deliver the money, Pitts?

A. Well, I gave it to a boy that used to work for me.

The Court: A boy that used to work for you?

A. Yes, sir.

The Court: What was the name of that boy that used to work for you?

A. Well, Summers.

The Court: Will who?

A. Summers.

The Court: Summers?

A. Yes, sir.

The Court: Does he still work for you?

A. No, sir.

The Court: Where is he now?

A. I heard he was in Louisiana.

The Court: That is what I thought; he probably left town. You haven't seen him for sometime have you?

A. Well, it has been almost a year.

The Court: Almost a year?

A. Uh huh.

The Court: All right.

A. Now that's the truth.

Q. (By Mr. Crawford) Where did you send the boy?
1281] A. Where did I send him?
Q. Yes. A. Out to Theopolis.

Q. When did you make these payments? A. Well, it must have been along as near as I can remember about -- about May.

Mr. Crawford: You may inquire.

Mr. Patten: If the Court please, at this time comes now the defendant Theopolis Scoggins and moves to strike all of the testimony by J.D. Pitts, as incompetent, irrelevant and immaterial, doesn't prove or disprove any issue in this case.

The Court: I will sustain the motion unless there should be evidence to connect it.

Mr. Crawford: If the Court please, in view of that I would like at this time to state that I am surprised by this witness' testimony; I would like an opportunity to show the Court, and to convince or to endeavor to convice the Court that this man should be impeached as a witness in any event.

The Court: Are you asking leave to cross-examine your witness for impeachment purposes?

Mr. Crawford: Yes, sir.

The Court: You were surprised at the testimony?

Mr. Crawford: Very much, Your Honor.

The Court: You have reason to believe that the testimony would be contrary.

1282] Mr. Crawford: Yes, sir.

The Court: You may impeach.

Mr. Crawford: I will request permission to use the grand jury proceedings if I may, sir?

The Court: You may do that.

Q. (By Mr. Crawford) Mr. Pitts, do you recall appearing before the United States grand jury in Tulsa, Oklahoma,

on March 1st, 1957? A. Yes, sir.

Q. I want you to speak up so you can be heard. I am going to ask you these questions and answers and ask you if you remember them. Do you know this man Theopolis Scoggins? Answer: Yes, sir.

Do you recall that question and answer?

A. Yes, sir.

Q. What sort of conversations have you had with him in regard to these payments he has picked up? Answer: When he started with me he asked me if I would help him on the campaign and I said I would do what I could.

Do you recall that?

A. Yes, sir.

Q. Question: What did you do for him?

The Court: Wait just a minute; you didn't ask him about that.

1283] Mr. Crawford: Well, sir, I have to -- well, I have -- I think that question is necessary to show the next one.

The Court: Well, all right.

Mr. Patten: If the Court please, may I approach the bench

The Court: Go ahead, and say what you want to.

Mr. Patten: I think what he is reading about, that is money that was taken for the campaign. It still wouldn't be for impeachment purposes.

Mr. Crawford: That is not what I am leading up to, Your Honor.

The Court: Objection overruled.

Q. Question: What did you do for him? Answer: I got him about $100 together at different times.

Do you recall that?

A. Yes, sir.

Q. Did you say that? -- Now today you said, $75. At which time were you telling the truth? A. Well, it might have been $100 -- $75 or one hundred, I don't know.

Q. When did you give him the first money?
Answer: I don't know exactly what month.

Do you recall that?
A. Yes, sir.

Mr. Malloy: If Your Honor please, that question wasn't
1284] asked him when he gave him the money?

The Court: Overruled.

Mr. Malloy: Exception.

Q. (By Mr. Crawford) How many times -- Question: How many times did he pick up money from you? Answer: I would say four or five times.

Do you recall that answer?
A. I don't hardly remember. I know I said I gave it to him twice.

Q. Well, do you recall being asked the question at the grand jury, how many times did he pick up money from you; and your answer was, I would say, four or five times -- do you recall that question and answer? A. I remember the question but I don't remember how many times now -- how many times I said, but I thought I said twice.

Q. Could it have been four or five times? A. Well, I don't know.

Q. How much would it be at the time. Answer: $25.

Do you remember that?
A. Yes, sir.

Q. Question: Just a certain amount? Answer: Yes, sir.

Do you remember that?
A. Yes, sir.

Q. Question: Did he pick it up once a week, or once a
1285] month? Answer: Once a week.

Do you understand that -- do you recall those questions and answers?

A. I don't remember what I said once a week or not -- I don't remember that.

The Court: I think that's enough.

I want to recommend that the grand jury investigate the testimony of this witness for the purpose of determing whether perjury charges should be -- an indictment should be returned for perjury.

The witness will be excused, and you -- the jury is advised that the testimony of the witness on cross-examination by the United States District Attorney, should not be considered by you as proof of the facts asserted. The testimony read of this witness about which he was interrogated, given before the grand jury must not be considered as proof of any fact to which it relates. It is admissible only for the purpose of impeaching the previous testimony of the witness, for the purpose of destroying his testimony; and if you are of the opinion that it has that effect, then you should disregard his testimony in its entirety, and not give it any consideration whatever.

You will be excused.

1286] DAVE MASSEY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Dave Massey

Q. Dave, you are a brother of Bob and Bill Massey, are you not? A. Yes, sir.

Q. Have you been engaged then in the liquor business with Bob and Dave Massey? A. Bob and Bill.

Q. Bob and Bill - excuse me. And did you at one time operate Buck's Garage? A. Yes, sir.

Q. And where is Buck's Garage? A. 115 South Cheyenne.

Q. And did you operate that for yourself or in conjunction with somebody else, Mr. Massey? A. With Bob.

Q. And when did you commence liquor operations at that address? A. In April I believe of last year.

Q. Now, would that be -- possibly referred to as a drive-

in, or a walk-in? A. Yes, sir.

Q. Did you ever purchase any liquor from Martin Edwards? 1287] A. Yes, sir.

Q. And over how long a period of time? A. Oh, off and on since 1950, I guess.

Q. And in how large quantities would you buy from Martin Edwards, Mr. Massey? A. Oh, different amounts; anywhere from two to seven cases.

Q. Would the whisky be delivered to the garage or would you meet someplace and pick it up? A. Both ways. At times I would meet him; at times he would just bring it to the garage.

Q. During November and December 1956, would the liquor be delivered to the garage or would you pick it up for the most part? A. In November some of it was delivered to the garage. Maybe in the first part of December. But we closed the garage in December.

Q. Now were you ever on any occasions, Mr. Massey, advised that the city raid was about to take place on your garage? A. Yes, sir, I have been.

Q. Have you during the past year, 1956, Mr. Massey, ever given any money to your brother Bill Massey? A. Yes, I have.

Q. And when did you give him the first moneys, do you re- 1288] call? A. You mean for what purpose?

Q. Well, the time if you please -- the month? A. Are you referring to this contribution on this --

Q. Well, I am talking about moneys other than those in the normal course of business; did you ever give him any money to pass on to anyone else? A. Yes, sir.

Q. And was that in the spring of 1956 sometime? A. It was in March or April.

Q. All right and how much money did you give him the first time? A. $75.

Q. And how much money did you give him the second time? A. I believe that was $75 -- both of them.

Q. Now, Mr. Massey, was Buck's Garage raided very much during April -- in April of 1956 by the city? A. I don't recall exactly, but it seems that we -- we were raided during the --

Q. Were you raided very much during May of 1956 by the City? A. I can't remember which month was which; I mean, I know we were being raided all the time.

Q. Were you raided very much during June of 1956 by the

1289] city? A. I believe we had some raids in June.
Q. Were those raids made by search warrants? A. Not all of them; some of them were and some of them weren't.
Q. Do you know Leo Jackson? A. Yes, sir.
Q. Do you know Johnnie Cole? A. Yes, sir.
Q. Do you know Jim Harp? A. Yes, sir.
Q. Did they raid you during the summer of 1956? A. I believe they did.
Q. Do you know how many times? A. No, sir, I don't.
Q. Well, could you approximate how many times to the best of your recollection? A. During the whole summer?
Q. Well, let's say during June, July and August. A. Oh, maybe five or six raids.
Q. Were those raids all made with warrants? A. I don't recall whether they were all made with warrants or not.
Q. So that more or less then you were raided during the first three months that you operated Buck's Garage? A. I couldn't say whether it was any more or not.
1290] Q. Were any charges filed against you during June, July and August by the city? A. Against me?
Q. Yes. A. No.

Cross-examination by Mr. Malloy

Q. Are you Bill Massey? A. Dave Massey.
Q. You are Dave Massey. And then there is a Bob Massey, and what is your other brother's name? A. Bill.
Q. You have testified here that on certain occasions whisky was purchased from Martin Edwards, is that right? A. That's right.
Q. And you have testified in quantities, varying quantities, is that right? A. That's right.
Q. And now these orders were -- did you have a separate business, Mr. Massey, from your other two brothers? A. Yes.
Q. You are all in a separate and distinct business, aren't you? A. That's right.
Q. Is that right -- and when you purchased from Mr.
1291] Martin Edwards, the respective quantities of whisky, those were three separate and distinct orders, were they not? A. At times.
Q. And as a matter of fact Martin wouldn't sell you anything more than two cases, is that right? A. He would take

the orders and we would -- usually we would get delivery on it pretty close to it.

The Court: I didn't hear that last statement.

A. I say, we would usually get whatever we ordered, pretty close to the orders.

Q. (By Mr. Malloy) Martin refused to make any particular sale to any individual that went in excess of three cases, is that right? A. Well, we never talked about it -- I mean, he never turned me down on it.

Q. Well, let's see, some calculations there, -- you say first, you offered orders, but the orders were put in for the separate and distinct businesses, is that what I understand? A. That's right; in other words, the garage, and then I had a telephone besides that, and my brothers had telephones, Bob and Bill.

Q. So actually you were making four distinct orders, weren't you, for four distinct operations? A. That's right.

1292] Mr. Malloy: That's all.

Mr. Crawford: That's all.

Mr. Hickman: Wait just a minute.

Cross-examination by Mr. Hickman

Q. Did you have a liquor dealer stamp at your place of business? A. Yes, sir.

Q. Always? A. Yes, sir.

Q. You say you were raided five or six times last summer? A. I guess it was that many times; I don't know exactly.

Q. But you never were charged? A. I was never arrested.

Q. Well, were any of your employees caught in possession of whisky and charged? A. Yes, sir, Bob -- the boys -- the boys at the garage were arrested, the ones that were working there.

Q. The ones who were selling whisky for you? A. For Bob, yes, sir.

Q. And you were not found in possession of the whisky or

upon the premises at the time? A. I was hardly ever there.

Q. What? A. I was hardly ever there, when it happened.

1293] Q. But, during the summer, five or six raids took place, and when whisky was found, the person employed by you in charge was arrested and charged? A. Not always, I don't think. I mean, sometimes they would, if they had a warrant they would take them; if they didn't, they wouldn't take them.

Q. In other words, if they had a warrant to sustain the arrest, and they found liquor they would arrest the man in charge? A. That's right.

Q. And make a case against him? A. That's right.

Q. But those cases where they raided without a warrant, they seized the liquor but did not arrest anybody? A. Yes, sir.

Q. These employees of yours who were caught by these officers, Cole, Harp and Jackson, were they subjected to any penalties in court as a result of this liquor possession? A. I don't recall whether they were or not.

Q. Are their cases still pending? A. No, they are all cleared up I believe; there might have been some fines.

Q. Imposed by the Court? A. Yes.

Mr. Hickman: All right, that's all.

1294] Redirect Examination by Mr. Crawford

Q. Now, these cases you spoke of, were they all city cases, Mr. Massey? A. No, there were some county raids, too.

Q. All right, how many of your employees were charged by the city from -- June, July and August, or during June, July and August? A. I don't remember how many was charged.

Q. Well, was there one or more than one? A. It seems like there were at least two.

Q. All right, how many were charged by the city during September, October and November of 1956?

The Court: I am at a loss to figure our the purpose of this line of questioning. I think you had better approach the bench.

(Thereupon Mr. Crawford, Mr. Malloy, Mr. Ungerman, Mr. Morley, and Mr. Hickman conferred with the Court at the Bench.)

Q. (By Mr. Crawford) Mr. Massey, you were raided quite a bit during December by the county, were you not?

Mr. Malloy: If Your Honor please, I object to that as incompetent, irrelevant and immaterial.

Mr. Crawford: If the Court please, --

The Court: Overruled.

A. What was the question?

1295] Q. (By Mr. Crawford) You were raided quite a bit in December by the county, were you not? A. That's right.
Q. You eventually had to close your business? A. We closed it in December.
Q. Now, Mr. Massey, on these times when you had been given advance warnings of the raid, did you leave any liquors around for the officers to seize? A. I believe I took the whisky with me -- if I would get one of those calls I would just take the car and the whisky and drive out.

Mr. Crawford: All right, thank you.

Cross-examination by Mr. Malloy

Q. Who warned you? A. Bob called me.
Q. Bob who? A. Massey.

Mr. Malloy: Move to strike it on the ground it is hearsay.

Mr. Crawford: No, if the Court please, --

The Court: It is not hearsay; you asked him about it -- you asked him about it.

Mr. Malloy: Well, we move to strike it on the ground it is incompetent, irrelevant and immaterial.

1296] The Court: The motion is overruled.

Mr. Malloy: Very well.

Jay L. Jones et al. vs. United States of America

BOB MASSEY, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please? A. Bob Massey.
Q. Bob, you are the brother of Dave and Bill Massey, is that correct? A. That's right.
Q. You were engaged in the liquor business here in around the City of Tulsa for a number of years, were you not, Mr. Massey? A. That's right.
Q. Approximately how many years? A. Since 1949.
Q. And was that business one primarily of retail, or wholesale? A. Retail.
Q. Did you ever buy any whisky from Bill Edwards?
1297] A. Yes, sir.
Q. In what quantities would you usually buy from Bill Edwards? A. Oh, six or eight cases, maybe ten.
Q. Did you ever buy any whisky from Martin Edwards? A. Yes, sir.
Q. In what quantities would you buy from Martin Edwards? A. Well, we would usually go together and buy four or five or six cases off Martin.
Q. Over how long a period of time?

The Court: Wait just a minute. You say, "we" would usually go together.

A. Oh, my brothers, Dave and Billie.

The Court: All right.

Q. Over how long a period of time did you buy from Martin Edwards? A. I bought from both of them just ever since I have been in business.
Q. Over the past eight years? A. Yes, except when they were out of business, like Bill was out of business for a year or so, and I think Martin was out for a year or so.
Q. Mr. Massey, did you have any interest in Buck's Garage? A. Yes, sir.
Q. And what was that interest? A. Oh, I guess it was all of it.
1298] Q. And who more or less worked for you there?

A. Dave, my brother.

Q. And you also had another business of your own, is that correct? A. That's right.

Q. Now, during the spring of 1956 after the present Fire and Police Commissioner was elected, do you recall having a conversation with Bill Edwards? A. After the spring?

Q. Well, after April 3, 1956. A. Oh, yes, I have talked to Bill after that.

Q. Did you talk to him about any money to be paid to cover your cars? A. Yes.

Q. And when was the first time that you had such a conversation with Bill Edwards? A. It must have been June.

Q. And where did that conversation take place? A. In front of his house.

Q. All right, will you relate to the jury what was said at that conversation? A. Well, he just said he would take care of me for $100 a month for each car.

Q. All right; and did you pay him any money at that time? 1299] A. No.

Q. When did you first pay him any money for that? A. I never did.

Q. How's that? A. I never did.

Q. You never did pay any money to Bill? A. Not to Bill, No.

Q. All right, now did you have any conversations thereafter with Martin Edwards? A. Yes.

Q. And did you ever talk with him about any payment to cover your car? A. Yes.

Q. When did you first talk to Martin Edwards? A. It was about the same time.

Q. And would you -- do you recall where that conversation took place? A. No, it could have been at his station, or my house, or wherever we would meet and talk.

Q. Did you see him quite often during that period of time? A. Yes.

Q. Do you recall what he said to you with regard to these payments? A. It was on the same order that --

Q. Well, will you tell the jury what he said, please. 1300] A. He would take care of me on the city deal for $100 a month for a car.

Q. All right, did you pay him any money? A. Yes.

Q. And when did you first pay him some money? A. June or July.

Q. And how much did you pay him? A. For myself?
Q. Yes. A. Two hundred.
Q. All right, did you give him any other moneys besides that to cover yourself? A. My garage.
Q. Well, did you give any other money? A. Yes.
Q. You had your garage covered? A. Yes.
Q. How much was your garage? A. Two hundred.
Q. That is Buck's Garage? A. Yes.
Q. Did you give any money for Bill? A. Yes.
Q. How much for Bill? A. One hundred; and later on it may have been for another car for Bill.
Q. Did you pay Martin then this five or six hundred dollar
1301] every month over a period of several months for yourself?
A. Yes.
Q. Bill, Dave, and the garage? A. Yes.
Q. And how often did you pay it? A. Once a month.
Q. And where would you usually meet to make these payments? A. Well, I was meeting Martin so much I don't know; I was meeting him all the time.
Q. Well, do you recall any of the places you would meet; would you usually meet on the street, somebody's home, or where? A. Usually a cafe. I started to say, a bar, but I don't think it was a bar -- a cafe.
Q. Now, when you had these conversations with Martin Edwards, Mr. Massey, did you ever discuss the possibility of you picking up from somebody else? A. Yes.
Q. And would you relate to the jury that conversation, please. Or, the first one, if there were more than one.
A. Well, there were more than one.
Q. Well, will you relate the first one, if you can recall it, please? A. I couldn't recall whether it was the first, or not.
Q. Well, relate the one you recall. A. Well, he wanted
1302] me to pick up the money so he could stay in the background all the time.
Q. Did he say why he wanted to stay in the background?
A. He wanted to keep it from Bill, his brother.
Q. Wanted to keep it from Bill Edwards? A. Yes.
Q. Did you then pick up the money? A. Yes, sir.
Q. Did you pick up the money from some other liquor dealers? A. Yes.
Q. All right, who was one of the other liquor dealers you

picked up from? Well, did Martin tell you who to pick them up from? A. Yes.

Q. All right, who did he tell you to pick up from? A. I picked up from Elmer Oakley.

Q. All right, did you pick up from Lee Johnson? A. Yes, sir.

Q. How much did you pick up from Lee Johnson? A. Oh, it would vary -- two, three, maybe four hundred.

Q. Did you pick up from Bill Curlee? A. Yes.

Q. Did you pick up from F.A. Griffing? A. I didn't

1303] pick up from Griff direct.

Mr. Malloy: If Your Honor please, I -- wait -- I move that that answer be stricken, as not responsive to the question; and, furthermore, he said he didn't pick up directly from Griff; and I don't believe his testimony is competent with respect to any testimony concerning Griff.

The Court: Well, I don't -- if he didn't pick up direct but he picked up otherwise, wouldn't it be admissible?

Mr. Malloy: I understood his answer to say, not directly, he didn't. I just don't want him to elaborate on that; the inference is that he did --

The Court: Well, that would be a fair inference.

Mr. Malloy: That is why I move that the answer be stricken, if Your Honor please.

The Court: Well, you didn't pick up from Griffing.

A. No, sir.

The Court: You picked up no money from Griffing.

A. No, sir.

The Court: Well, the word "direct" used by the witness should not be considered by the jury. His answer is that he did not pick up from the defendant Griffing.

Q. (By Mr. Crawford) Did you pick up from A.D. Pete

Miller? A. Yes, sir.
Q. Did you know A.D. Pete Miller to be working for Griffing? A. Well, yes.
Q. Well, how much did you pick up from A.D. Pete Miller?
1304] A. Two hundred.
Q. Two hundred dollars each month? A. Yes, sir.
Q. How much were you picking up from Elmer Oakley?
A. Three -- four hundred.
Q. Four hundred dollars? A. Yes.
Q. All right. Now, when Lee Johnson gave you the $200 you mentioned, did you have a conversation with him at that time? A. Probably did.
Q. Did he tell you anything with regard to where that money came from? A. Lee Johnson?
Q. Yes. A. It was his.
Q. Was it all his? A. Yes.
Q. Did he make any reference to you with regard to Paul Vawter? A. Yes.
Q. What did he say about Paul Vawter? A. Well, later on, it wasn't at that time, but later on he took $100 a month from him.
1305]
The Court: Did he say to you that he was taking $100 a month from Paul Vawter?

A. Yes.

The Court: Johnson told you that?

A. Yes.

Q. (By Mr. Crawford) All right, was Elmer Oakley giving you money for just himself, or for somebody else too? A. For someone else --

The Court: Wait just a minute --

Mr. Gotcher: We object to that.

The Court: That question is improper. You may tell what Elmer Oakley told you -- any statements made to him by Oakley are admissible.

Q. (By Mr. Crawford) Did Elmer Oakley tell you with regard to where the money came from that he delivered to you? A. Well, some of it was his, and some of it was someone else.
Q. Who was someone else; did he tell you? A. Yes.
Q. Who was the someone else?

Mr. Gotcher: To which we object to because it is hearsay evidence.

The Court: Yes, it would be hearsay as to the other party; and it would be admissible against Oakley but not against the other party; it would be hearsay as to the other party.

1306] Mr. Crawford: Unless a conspiracy is established, Your Honor.

The Court: If the other party is a member of the conspiracy, of course it would be admissible against him.
You may answer the question, and I will instruct the jury later whether it would be admitted. Who did Oakley tell that he was paying you part of the money for?

A. Williams.

The Court: Neil Williams?

A. Yes, Neil Williams.

Q. (By Mr. Crawford) All right now --

Mr. Gotcher: If Your Honor please, again we renew our objection, and ask that the matter be stricken, and the jury admonished not to consider it against the defendant Williams, because it is hearsay.

The Court: Overruled.

Mr. Crawford: If the Court please, this is --

The Court: Overruled. I -- I will overrule your objection at this time. I mean, your motion at this time. Of course you will understand that there must be independent competent evidence

sufficient to go to the jury on Williams' participation in the alleged conspiracy in order for this evidence to be admissible against him.

Mr. Gotcher: Yes.

The Court: If there isn't independent, competent evidence
1307] sufficient to bring him in, then it should not be considered.

Q. (By Mr. Crawford) Now, over how long a period of time, Mr. Massey, did you pick up this money from Elmer Oakley?
A. Four or five months.
Q. And what time of the -- what date of the month would the payment usually be made? A. Around the first.
Q. And where would you usually meet him? A. I met him so much I don't know where I --
Q. Well, would it be on street corners, such places as that? A. No, it would be a cafe, probably.
Q. Were these meetings arranged for by telephone calls?
A. Yes.
Q. And were the payments always in cash, or were they in -
A. Cash.
Q. Did you obtain descriptions of the automobiles to be covered? A. Descriptions?
Q. Yes. A. No.
Q. Did you obtain tag numbers? A. Yes.
Q. All right, over how many months, Mr. Massey, did you pick up money from Lee Johnson? A. About the same length of time.
Q. And would these payments be made on the first of the
1308] month, or some other time in the month? A. Close to the first.
Q. And where were those payments made -- in general?
A. The same thing -- cafes, or made at his house.
Q. For how long a period of time did you pick up these payments from Bill Curlee? A. Probably four months.
Q. And when was the last payments that you picked up from Bill Curlee? A. It was either September or October.
Q. Did Mr. Curlee quit paying you about that time?
A. Yes.
Q. And where, in general, would those payments be made?

A. Most of his were at his house.

Q. Now, for how long a period of time did A.D. Pete Miller deliver you the money? Well, was it a matter of several months? A. Yes, four -- three or four.

Q. And where would those deliveries of those moneys usually take place? A. He usually came by the house -- by my house.

Q. Did you obtain license numbers on all these cars that were covered by the payments we have discussed here today -- in other words, when you picked up these payments, did
1309] you -- originally obtain the license numbers of the cars to be covered? A. Yes.

Q. Now, Mr. Massey, how often -- who did you turn this money over to? A. Martin.

Q. And how often would you meet Martin to turn --

The Court: Do you mean Martin Edwards?

A. Yes, sir.

Q. (By Mr. Crawford) How often would you meet Martin Edwards and turn the money over to him? A. Once a month.

Q. And where would you usually meet him? A. Different places.

Q. Well, where are some of those places? A. Oh, I would meet him at the station, or Twenty-first and Harvard, a drug store.

Q. By "the station" you mean his filling station? A. Yes, sir.

Q. Twenty-first and Harvard, is that a Crown Drug store? A. Yes.

Q. Did you live in the vicinity of the drug store? A. Yes.

Q. Just a little bit behind it, is that right? A. Yes.
1310] Q. Now, Mr. Massey, did Martin Edwards ever advise you in advance that Buck's Garage was going to be raided? A. I think he did, one time.

Q. And whom did you call and pass that information on to, if anybody? A. I called Dave Massey.

Q. And who, from the City, made those raids, do you know? A. No, sir.

Q. When Bill Curlee stopped paying there in the fall of

1956, did you have a conversation with Martin Edwards with regard to those payments? A. Yes.

Q. And will you relate that conversation to the jury, please? A. When Bill quit paying?

Q. Yes. A. Well, we were all trying to get our prices raised, and Bill Curlee didn't want to go along with it.

Q. That is, your prices on the whisky? A. Yes, the whisky prices.

Q. What was the price that you were trying to raise from; what was the old price, do you recall? A. There was about three or four different prices.

Q. Well, how much of a raise had been put into effect? A. Fifty cents a bottle.

Q. Did the other people that you were picking up from 1311] go along with the raise?

Mr. Malloy: Wait a minute, if Your Honor please; I believe that we will object on the ground that unless this witness states who he was having these conversations with relative to this so-called price fixing, where they took place, and when -- he said "we" -- he might have been talking to his brothers, as far as I know, and as far as the jury can tell.

The Court: I thought I -- it seemed clear to me who he was talking about. Who did you have this conversation with with respect to raising the prices?

A. Martin.

The Court: Did you have a conversation with Martin Edwards?

A. Yes, sir.

Q. (By Mr. Crawford) Did Martin say anything to you with regard to Bill Curlee not going along? A. Yes; he said, don't pick up from him no more.

Q. Now how long did you pick up this money from the others thereafter, Mr. Massey; when was the last pick up, in other words? A. October or November.

Q. Now, during the course of these pickups, Mr. Massey, did the tag numbers ever change? A. Very little.

1312] Q. Well, you recall that some did change, and some did not. A. Yes.

Q. When they did, were you notified by the person paying? A. Yes.

Q. What did you do with the new tag numbers; who did you pass that on to? A. I passed it on to Martin.

Q. Now, prior to the time that you commenced picking up this money and delivering it to Martin Edwards, did you ever give any money to anyone else to go to Bill Edwards? A. Yes.

Q. And when was that occurrence? A. Oh, it was along in April.

Q. And to whom did you give that money? A. Bill -- Billie Massey.

Q. And how much did you give Bill? A. Oh, it was seventy-five or $100 -- twice.

The Court: I want to ask a question or two.

Did Edwards tell you what he was doing with this money that you turned over to him?

A. Well, it was supposed to be for a campaign fund.

The Court: Well, did you -- what did he tell you that he was doing?

A. No, no, Edwards didn't tell me.

The Court: I am talking about Martin Edwards, after you
1313] started picking up this money which you turned over to Martin Edwards that you have testified about, did Martin Edwards tell you what he was doing with that money?

A. No, sir.

The Court: Did you receive any part of it yourself?

A. No, sir.

The Court: He never did make any statement to you as to what he was doing with the money? After he collected it from you?

A. No, sir.

The Court: When you got these license numbers from the various people that you collected from, did you immediately turn this over to somebody?

A. Oh, I would as quick as I could.

The Court: Whom did you give those license numbers to?

A. Martin.

The Court: Martin?

A. Yes, sir.

The Court: Why did you ask for these license numbers?

A. Sir?

The Court: Why did you ask for these license numbers?

A. Well, I guess that would be the way that they would 1314] know not to bother them cars.

The Court: Who told you to get the license number?

A. Martin did.

The Court: Did he tell you why he wanted you to get the license number?

A. Oh, I don't know if he ever told me or not; I can't remember.

The Court: All right, cross-examine.

Cross-examination by Mr. Malloy

Q. Now, Mr. Massey, as I understand it there are three Massey boys, is that right? A. Well, there is more than three of us; there is three of us here.

Q. Three of you in the whisky business in Tulsa, is that right; there is Bob Massey, Bill Massey, and Dave Massey, is

that right? A. Yes, that's right.

Q. You all have your separate and distinct businesses, is that right, Bob? A. That's right.

Q. Now, you testified here with respect to purchases made from Martin Edwards. As I got your testimony it was that you would buy from Martin six cases, something of that nature, is that right? A. Yes, that's right.

Q. Now, those orders would be from -- that is, in varying
1315] amounts, two cases, three cases, up to six cases; those orders would be made for the separate businesses of you and your other two brothers, isn't that right? A. Yes.

Q. As a matter of fact, Martin refused to sell you more than two cases, any individual, isn't that right? A. That's right.

Q. Now, with respect to the alleged questions of pay-offs, or where you pick up the money, and so on, would you please tell again to the jury when you started to picking up from Lee Johnson? A. June or July.

Q. Well, do you remember whether it was June or July? A. It was more than likely July.

Q. Do you remember where it was? A. No, I can't say for sure, but the way I would think, it would be at his house.

Q. Well, you don't remember, though, do you, Mr. Massey? A. No.

Q. You don't remember what that date was? A. No.

Q. Well, could it have been around the 1st of July? A. Yes.

Q. In fact it could have been even in June? A. Yes.
1316] Q. Now then, I believe you have testified that you subsequent to that time picked up some money from Lee Johnson, later, is that right? A. Later?

Q. Later on in the year of '56 -- after June? A. Oh, yes, yes.

Q. Now, that means that you picked up in July, is that right? A. Yes.

Q. Please tell the jury where it was that you picked up the money from Lee Johnson, in July? A. Well, it would be the same thing, I guess, up to his house.

Q. Well, but do you know -- do you remember? A. No.

Q. Was anybody present, Mr. Massey, when you allegedly picked up this money from Lee Johnson in June or July, besides you and Johnson? A. Not that I can remember, no.

Q. All right, now then you say you picked up again from Lee Johnson; did you pick up in August? A. Yes.

Q. Where did you pick that money up from Lee Johnson? 1317] A. I guess at his house.

Q. Well, you don't know, do you -- do you remember the date? A. No.

Q. Well, now, did you pick up some money in October from Lee Johnson? A. I believe so.

Q. You aren't sure? A. Yes -- well, I am not sure, no, but I mean -- I quit picking it up about November -- any of them.

Q. That question is, did you pick up any money from Lee Johnson in October? A. Well, I was supposed to have.

Q. Did you -- that's the question. A. Oh, I don't know how to answer that.

The Court: Well, do you know whether you did, or not?

A. Well, I don't know when we quit -- when the thing quit

The Court: Well, if you don't know, just say so.

A. No, I don't know.

Q. (By Mr. Malloy) All right, I believe you testified in your direct examination that you picked up some money from Pete Miller, is that right? A. That's right.

Q. You testified, I think, that you picked up from Pete 1318] Miller four times. A. Three or four.

Q. Well, where did you pick up the money from Pete Miller, Mr. Massey? A. He brought it by my house.

Q. Well, now, when was the first time you picked up any money from Pete Miller? A. I don't believe I can remember that.

Q. Well, was it in June or July? A. It would possibly be June or July or August.

Q. Now, did he come to your house, you say? A. Yes.

Q. And who was there besides you and Pete Miller? A. I wasn't there; my wife was there.

Q. Well, Pete Miller didn't give you any money at all, did he, at that time? A. No, he didn't give it to me in person.

Q. Well, then, Pete Miller did not pay you the money as

you testified to under direct examination, the first time at all, did he? He didn't pay you any money, did he? A. No.

Q. That's right. So -- now then you say he paid you some money later on, is that right? A. Well, now, it was the same kind of deal every time.

Q. So that Miller didn't pay you any money the second time. A. No.

Q. Now, was there any other time Miller paid you any
1319] money, Mr. Massey? A. Well, there could have been one or two other times -- paid the same.

Q. Well, do you know -- do you know -- A. No, I didn't keep no records of it.

Q. That's right. Now, Mr. Massey, as I understand your testimony you never collected any money at all from F.A. Griffing, did you? A. In person?

Q. Yes, in person. A. No, sir.

Q. Well, you never collected any money from Pete Miller in person, as far as that is concerned, did you? A. No, sir.

Q. Now these occasions that -- who else did you say you picked up some money from -- Bill Curlee? A. Yes, sir.

Q. How many times did you say you picked up money from Curlee? A. Oh, four or five times.

Q. Well, when was the first time that you picked up money, from Curlee? A. Well, the best I can remember, it would be July.

Q. June or July? A. It could have been either one.
1320] Q. It could have been either June or July? A. Yes.

Q. Do you remember where it was? A. Well, I thought it was at his home.

Q. Do you remember -- or do you know? A. To the best of my knowledge -- that's all I can answer that.

Q. That was in June or July, is that right? A. Yes.

Q. Now, you say you later picked up some more money from him? A. Yes.

Q. Where was that? A. Same place.

Q. Are you sure of that? A. To the best I can remember.

Q. All right, you picked up from him a third time? A. Yes.

Q. Where did you pick that up? A. The same place.

Q. Anybody present when you made these alleged pickups? A. Why, his wife was there, but I don't know whether she knew it, or what -- I don't know.

1321] Q. Now then, you aren't real sure where you made any of these pickups, are you, Mr. Massey, nor the date? A. No, I am not sure about the date. I met so many of these boys, and I have talked to them for the last eight years; it is hard to pinpoint one particular deal -- or one incident, as to why I was even talking to them.

Q. Well, this is pretty important business dealings, Mr. Massey, that you have testifi i to here. A. Yes.

Q. I believe you have said that you turned over certain money that you allegedly collected to Martin Edwards, is that right? A. Yes.

Q. How many times do you say you have turned over money to Martin Edwards? A. Well, I -- four or five times, I would say.

Q. When was the first time? A. June or July.

Q. How much money did you turn over to him? A. I don't know.

Q. Where was he? A. Where did I give him the money at?

Q. Yes. A. Oh, it would either be at his station, or maybe a drugstore behind my house.

Q. Well, let's take the first time. How much money did 1322] you have, did you say? A. I don't know.

Q. Where did you give him the money the first time? A. Well, I can't remember the first from the last.

Q. Well, had you at that time collected all the money that you allegedly had picked up from these other people? A. You mean, when I gave it to him?

Q. Yes. A. Yes.

Q. All at one time? A. Yes.

Q That would be a rather sizable amount of money, wouldn't it? A. I suppose so.

Q But you don't remember paying Martin Edwards or where you paid at that time, do you? A. You want the exact amount?

Q. No, I just want to know where it was. A. No.

Q. You don't remember? A. No.

The Court: I think he has given you a fair answer to the question. He said it was either at this filling station, or at the drugstore near his house.

1323] Q. (By Mr. Malloy) Where is this drugstore? A. It is right behind my house, 21st and Harvard, right --

The Court: 21st and Harvard, right behind his house; he has described it two or three times.
Is that 21st and Harvard?

A. Yes, sir.

Mr. Malloy: You don't want me to pursue that any more then, is that right?

The Court: Well, I should think answering a question two or three times would be sufficient; that is my only point.

Mr. Malloy: All right.

The Court: I want you to fully cross-examine, but I do want to avoid unnecessary --

Mr. Malloy: I am trying, Your Honor. It seems to me that -- well, I don't want to argue it in front of the jury -- a man giving that amount of money he ought to know where he turned it over, not to be here and there, or of that nature.

The Court: Well, personally I think his recollection is about as good as you might expect. I wouldn't expect him to know all the details about the exact date and place where he met every person with whom he dealt.

Mr. Malloy: I am trying to remember one thing he testified -- trying to remember about the Vawter proposition. Just a minute please.
1324]
Q. (By Mr. Malloy) Let me ask you this, Mr. Massey: I believe you testified here that Mr. Johnson -- Lee Johnson gave you some money, that he told you that he was getting from Vawter, is that right? A. That's right.
Q. When was that? A. It would be around September.

Mr. Malloy: That's all.

Mr. Shortridge: If the Court please, I would like to ask the witness a few questions.

Cross-examination by Mr. Shortridge

Q. Mr. Massey, I gather from your testimony that you had been in the retail end of the liquor business? A. That's right.

Q. And that was your only interest in it, wasn't it? A. That's right.

Q. And you and all your brothers have been in business independent? A. That's right.

Q. You aren't partners in any way? A. No.

Q. And when one would order for the other, you would just be doing it as a matter of accommodation? A. That's right.

Q. And the purchases by you or your other two brothers
1325] never were more than two cases individually. A. That's right.

Q. And you have always paid your retail liquor dealers stamp, I believe, haven't you? A. Yes, sir.

Q. You have -- you never were a party to any conspiracy or anything to beat the Government out of any taxes, were you? A. Not that I know of.

Q. And you didn't have anything to do with transporting whisky or importing it? A. No, sir.

Q. You just bought it down here? A. Yes, sir.

Q. And you were in active competitive competition with other dealers? A. Yes, sir.

Q. For instance, Bill Burlee, when you talked to him he wouldn't enter into an agreement with you, would he? A. I don't know what you mean.

Q. I may not have asked that question clearly; and if there is any question that I ask that you don't understand, please correct me, or tell me. A. Well, I missed that one.

Q. That you didn't understand. As I remember your tes-
1326] timony, you had a conversation with Mr. Curlee about a raise in price of liquor. A. Yes, sir.

Q. And Mr. Curlee wouldn't go along with it? A. That's right.

Q That is, he refused to do anything -- to have anything to do with any combination for raising prices? A. That's right.

Q. The dealers were strictly independent of one another? A. Yes.

Q. And, Bill Edwards, -- you had a conversation with him about paying money, but you didn't pay him any money. A. Yes.

Q. Isn't that what your testimony was? A. Yes, that's right.

Q. And you don't know anything about any payments before 1956, do you? A. No, sir.

Q. To anybody. A. No, sir.

Mr. Shortridge: I believe that's all; thank you.

Cross-examination by Mr. Gotcher

Q. Bob, I believe you testified that you picked up money
1327] from about five or six different retailers. Now, I don't remember -- there has been testimony here that perhaps there are at least one hundred retail liquor dealer stamps issued to the City of Tulsa -- in the City of Tulsa. Would you collect from all of these retail liquor dealers? A. No.

Q. Now then you quit collecting in the month of October? A. To the best of my knowledge it was October or November, somewhere along there.

Q. Uh huh. Now, you don't remember when you picked up any money from Elmer Oakley, do you, Bob? A. Well, I can't remember the exact incident.

Q. That's exactly -- it could be possible that you didn't collect any money from him, couldn't it? A. Well, I don't know; I guess it could be possible; but I was supposed to have collected it.

Mr. Gotcher: Thank you.

Redirect Examination by Mr. Crawford

Q. What do you mean, you were supposed to collect it?

The Court: What do you mean, it would be possible that you didn't collect from him? Didn't you testify that you did collect from him? A. He wanted to know where; he got me confused on the question, I guess.

1328] The Court: I am trying to get you out of any state of confusion you may have been into. You testified you collected money from Elmer Oakley, did you not?

A. Yes, sir, that's right.

The Court: On four or five different occasions.

A. That's right.

The Court: Is there any question at all as to whether you did that?

A. The question is, as to where I done it.

The Court: I am not asking you -- did you collect it?

A. I collected it.

The Court: You collected it once a month?

A. That's right.

The Court: For a period of about four or five months?

A. That's right.

The Court: The thing you are uncertain about is the exact place?

A. Place.

The Court: And the exact time you made each collection?

A. That's right.

Mr. Malloy: I want to ask one more question, if I may.

1329] Cross-examination by Mr. Malloy

Q. You say you have known Martin Edwards since, oh, at least 1948 or '49 -- well, around there -- did you know him as far back as 1951? A. Oh, yes.

Q. In 1951 do you know or recall when he left Tulsa and was gone for about a year, over at Edmond, was living over there, operating a tap room, called the Edmond Tap Room?

A. I remember he went over there, but I don't remember what year it was.

Q. You remember he was there about a year? A. Yes.

Q. Around '51 or '52? A. Yes.

Mr. Malloy: That's all.

The Court: Anything further?

Mr. Shortridge: Yes, sir, one more question.

Cross-examination by Mr. Shortridge

Q. Mr. Massey, as far as you knew everybody that you were dealing with in the liquor business except perhaps your immediate customers, had paid their taxes to the Government, to sell liquor, hadn't they? A. Do you mean, had a liquor stamp?

Q. Yes, sir. A. I never questioned them.

1330] Q. I see. As far as you know --

The Court: Well, he didn't know; that is his testimony.

Mr. Shortridge: Yes, sir; he didn't know of any of them not having it.

The Court: Well, he didn't know whether any did, or didn't; is that right?

A. Yes, I didn't know.

The Court: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Massey, when you bought this liquor from Bill and Martin Edwards, you ordered more than two cases at one time, did you not? A. Yes, sir.

Q. Now, what did Bill Edwards tell you the purpose of paying these moneys would be? A. It would be for protection to the Police Department.

Q. All right. Then on these raids, where you were advised by Martin they were going to take place, was any whisky

ever seized?

Mr. Malloy: Wait a minute, if Your Honor please. I understand, I recall the testimony was, on one occasion.

The Court: That's right, it wasn't "these raids" --
1331] he said he recalled one.

Q. (By Mr. Crawford) Was there one, or more than one? A. Best I can remember --
Q. All right, was any whisky seized on that occasion? A. Yes.
Q. All right, did you eventually get it back? A. Get the whisky back?
Q. Yes. A. No.
Q. Did anybody eventually get it back, in your family? A. No.
Q. Was there a large quantity seized, or a small quantity? A. It wasn't very much.
Q. Do you know whether or not that whisky was ever returned to Buck's Garage? A. I don't think it was, no.

Mr. Crawford: That's all.

The Court: That's all.

* * * * *

1332] BILL CURLEE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Curlee, do you recall the conversation with Bill Edwards during April or May of 1956? A. I believe so.
Q. Do you recall the conversation in the vicinity of 28th and Harvard here in the City of Tulsa? A. That's correct.
Q. All right, will you relate that conversation to the best of your recollection to this jury, please. A. The conversation with Bill Edwards, he asked me if I was interested

in a deal where I wouldn't be bothered.

Q. Did he say bothered by whom? A. Well, I naturally assumed --

The Court: No, just tell what he said to you.

A. I don't recall whether it was by whom or what.

Q. (By Mr. Crawford) All right, and what did you say to him? A. Well, I told him I was interested.

Q. All right, did he say anything else to you about how much it would cost? A. It was $100 a month for each car.

Q. And did you give him any money at that time?

1333] A. I don't believe so -- not at that time; I think we merely discussed it.

Q. All right, did you give him any money later?

A. Yes.

Q. And how much money did you give him? A. $200.

Q. Do you recall where you gave him that money?

A. It was at Sol's Grill, at 28th and Harvard.

Q. Money in cash, or check? A. Cash.

Q. Was any receipt given for it? A. No.

Q. Did you have a conversation with Bill Edwards soon thereafter, within the next two or three weeks? A. I believe it was about three or four weeks later Bill called me up.

Q. What did he say when you called you up? A. Told me that the deal would be off, that I would be on my own.

Q. Now prior to the time that you had this conversation with Bill Edwards, had you paid several liquor fines? A. Yes, I had.

Q. Did you have any during the month that you -- did you get any liquor fines during the month you were covered by the $200? A. No, sir.

Q. Did you give Bill Edwards a description or the license

1334] number of your cars? A. That's correct.

Q. Now, directing your attention to on or about July 1st 1956, did you have an occasion to have a conversation with Bob Massey? A. Yes.

Q. And where did that conversation take place? A. Bob came by my house.

Q. And will you relate that conversation to the best of your recollection to the jury, please. A. Bob told me that

he was going to be the man and from now on I could pay him; things would go on just as they had been.

Q. Did he say what he meant, just as they had been? A. Yes.

Q. And what did he say? A. Well, I don't know if that was the correct words that he said; he told me that things would -- that I wouldn't be bothered, that Bill Edwards was out and he would collect the money from now on.

Q. And did you pay Bob Massey any money at that time? A. I believe it was two or three days later.

Q. Uh huh. And how much did you pay him two or three 1335] days later? A. $200.

Q. And where did you pay that money? A. I believe he picked it up at the house.

Q. All right. Did you pay him during August? A. Yes, sir.

Q. How much did you pay him during August? A. $200.

Q. And do you recall where that payment was made? A. I believe it was at the house also.

Q. All right, did you pay him during September? A. Yes, sir.

Q. And how much did you pay him during September? A. $200.

Q. And do you recall where that payment was made? A. That was at Bob's house, I believe.

Q. Well, did you pay him during October? A. I believe October was the last month I paid.

Q. And how much did you pay during October? A. $200.

Q. Can you recall where that payment was made? A. I believe Bob came by the house.

Q. All right, you quit paying then in October? A. That's correct.

Q. Did you have a conversation with Bob Massey with 1336] regard to why you quit paying him? A. Yes, I did.

Q. Would you relate that conversation to the jurors, please. A. Bob called me up and told me to come up on my whisky prices and I told him I couldn't go along with it, and consequently I was booted off of the deal.

Q. All right, do you remember the date of the Texas Tech-Tulsa University football game? A. That's right.

Q. Did you have a conversation with Bob Massey that day? A. That's right.

Q. Would you relate that conversation, please. A. Well, Bob called me up and told me that I was off the deal; I would be on my own.

Q. Did he return any money that you had paid, or did you forfeit what you had already paid? A. No, three or four days later he brought I think forty, or forty-two dollars by the house.

Q. What did he say to you at that time? A. I wasn't there; he just gave it to whoever answered the door.

Q. Now, during the time that the raise was in progress there, the raise in price, did you have occasion to have a conversation with Lee Johnson? A. I believe I did.

Q. Will you relate that conversation to the jurors, please.
1337] A. Lee told me he wasn't going to go for any increase in the price also, that if I didn't come up he wasn't going in on the price increase himself; he wasn't coming up, also.

Q. All right now, Mr. Curlee, during this time that you were paying the money to Bill Edwards and Bob Massey, were you ever raided by the city raiding squad? A. No, sir.

Q. Now, after you paid this money, after you stopped paying this money to Bob Massey, were you, or any of your boys ever raided there before January 1st? A. We had a boy that was caught that was in a traffic accident, and a couple of my drivers were stopped, but there wasn't any whisky found on them.

Q. Now, when you delivered these moneys to Bill Edwards, did you give -- give him a description of the cars to be covered? A. I gave him the tag number.

Q. All right, did you ever change those tag numbers or change cars during the time you were paying Bill Edwards or Bob Massey? A. I could have a time or two, I think so.

Q. If you changed them, did you then change the numbers
1338] that you gave to the person you were paying to?

A. That's right.

Q. Now, Mr. Curlee, do you recall an article that was written in the Tulsa Tribune at the time this price raise was in effect saying you would not go up on the prices, or you were cutting prices? A. Well, there was an article in the paper about it but I didn't know that it definitely meant me.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Malloy

Q. Mr. Curlee, if I understand you correctly, you left this alleged conspiracy in October, is that right? A. It was about the date of the Texas Tech football game was the last day I was in on it.

Q. Do you remember what date that was? A. No, sir, I sure don't; I don't recall just what date that was.

Q. Well, your best recollection it was in October anyway, is that right? A. I would say October.

Q. In answer to Mr. Crawford's question you stated that you joined this alleged conspiracy on what date? A. I would say about five months prior.

Q. Well now, is that in June or July? A. That would
1339] be October -- I would say around July -- June or July, somewhere along there.

Q. Well, didn't you testify you had a discussion first with Bill Edwards and decided you weren't interested, is that right? A. That's right.

Q. And then, so it was later on that you finally did become interested but you don't recall the exact month? A. I don't remember the dates, no, sir.

Q. Now then how many payments did you say you made to Bill Edwards? A. One payment was all I ever made to Bill Edwards.

Q. How much money? A. Two hundred.

Q. What was that for, two cars? A. That's right.

Q. And you don't recall where that payment was made do you, Mr. Curlee? A. It was made at 28th and Harvard, Sol's Grill.

Q. That was the only payment as I understand you made to Bill Edwards, is that right? A. That's right.

Q. You never made any payment to Martin Edwards, did you? A. No, sir.

Q. You testified you made some payments to Bob Massey,
1340] and when did they begin? A. Right after Bill's.

Q. When was that? A. Well, it was either -- if -- I paid Bill in June, it was with him in July.

Q. But you don't remember? A. No, sir, I don't recall.

Q. Well, at any rate you testified that during that period now when you were allegedly making some payments to Bob Massey you were not raided, is that right? A. That's right.

Q. Now then you say you got out either in September or October, somewhere along in there, now you weren't raided after you got out until the first of the year at any rate, were you? A. No, sir, I wasn't raided.

Q. No. And this traffic accident, that in other words was a result of a traffic accident; it wasn't any raiding squad raided you, you just had a traffic accident and as a result of the investigation they found the whisky, isn't that right? A. That's correct.

Q. When you paid these payments to Bob Massey back there in -- whenever it was, did he tell you that he was going to give that money to Martin Edwards? A. No, sir.

Q. Now with respect to the whisky prices that is a con-
1341] stant general topic among bootleggers, isn't it, Bill, I mean, they are always discussing prices? A. That's right.

Q. That is not the first time, in 1956, there has been a question of whether you were going to go up in prices or down in prices or -- you talk about that in the bootleg trade all the time, don't you? A. It is a pretty frequent --

Q. Topic of conversation. A. Conversation, yes.

Q. Trade conversation you might say.

Mr. Malloy: That's all.

Cross-examination by Mr. Hickman

Q. Do you live at 3636 South Urbana? A. That's right.

Q. How long have you lived there? A. Oh, two or two and a half years.

Q. What addition is that, Mr. Curlee? A. Mockingbird Lake Addition.

Q. It is kind of an exclusive nice class addition, isn't it? A. Well, I wouldn't say it is exclusive; it is a nice neighborhood.

Q. It is the addition on Mockingbird Lake? A. No, it
1342] is across the street from the lake.

Q. Well, your house is? A. Yes, that's right.

Q. Some of the houses are on the lake? A. Yes.

Q. Do you have a retail liquor dealers stamp for that address? A. I sure do.

Q. You always have had? A. All the time my business

has been operated from that address I have.

Q. Well, what time you have been in the business of selling liquor you have supplied yourself with a retail liquor dealers stamp issued by the Government? A. At all times.

Q. Never been without it while you have been in the business? A. That's correct.

Q. You didn't keep you liquor at the house though, did you? A. No, I never kept --

Q. Did you have a plant someplace out in the county? A. I think so.

Q. Well, I'm not asking you to tell where it was in the 1343] county, but you kept your liquor stached someplace out in the county removed from the city limits, didn't you? A. That's right.

Q. And your business was a delivery business by car and telephone? A. That's right.

Q. And your customers would call the house and put in the order for a lug or two, and your runners or delivery boys would keep in contact by telephone? A. That's right.

Q. And you would tell them who to go to next. And you would operate by telephone and delivery? A. That's right.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Curlee, you delivered your whisky here in the City of Tulsa for the most part, did you not? A. That's right.

Mr. Crawford: Thank you.

Cross-examination by Mr. Shortridge

Q. Mr. Curlee, as I understand your testimony you have always had a retail liquor dealers stamp and carried on retail liquor dealers business? A. That's right.

Q. It was independent from anybody else? A. That's 1344] right.

Q. So you wouldn't tell this jury that you entered into any conspiracy to beat the United States out of taxes, would you? A. I don't believe I have ever tried to beat them out of any taxes.

Q. Well, were you ever a party to any scheme to beat the United States out of any taxes? A. Not to my knowledge.

Mr. Shortridge: That's all.

Redirect Examination by Mr. Crawford

Q. You are speaking from your own personal knowledge, is that right, Mr. Curlee? A. That's right.
Q. You don't know whether the people you have been dealing with had the proper wholesale and retail liquor stamps do you? A. That's right.

Mr. Crawford: That's all.

The Court: Anybody else want him?
That's all.

1345] CHESTER MERLE BARRENTINE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Chester Merle Barrentine.
Q. You are engaged in the retail liquor business are you not? A. Yes, sir.
Q. How long have you been in that business? A. Since June -- I mean, January 1956, until 1957.
Q. Have you worked for various bootleggers? A. Yes, sir, I have.
Q. Who are some of them that you have worked for? A. Lee Johnson, Bob Massey, Martin Edwards, Bill Curlee, Gene Mace. And maybe two or three more I can't think of right now.
Q. All right, in 1954 were you working for Lee Johnson? A. I believe it was 1953, sir.
Q. 1953? A. I think that was it.
Q. Do you recall making a delivery of about ten cases of whisky for Lee Johnson during that time? A. I was planting whisky for Lee Johnson at that time, and they brought some

whisky into the house to be unloaded and I think we unloaded fifteen or twenty cases at my place, and then we got in
1346] his car and met a person which I thought was Bob Massey, seven or eight blocks away, and we switched.

Mr. Malloy: If Your Honor please, I was -- sorry.

The Court: A person that he thought was Bob Massey, about six or eight blocks away.

Mr. Malloy: All right, sir, thank you.

A. And we switched cars; we went one way and he went the other way. I would say it looked like there was about ten cases in the car that we met him, and switched with.

Q. (By Mr. Crawford) This liquor was delivered then at that time to whoever that person was? A. Well, I would say it was, yes.

Q. To the best of your recollection it was Bob Massey, is that correct? A. Yes, sir.

Q. Now, Mr. Barrentine, were you working for Martin Edwards in 1954? A. Yes, sir.

Q. Do you recall during that time making a delivery of two cases of half pints to a man out on North Lansing Street? A. I would say it was somewhere around that because it was a colored fellow on North Lansing, about Lansing and Marshall, along there somewhere, and I made two trips in from the car to the man's place to bring it in. It was in lugs.

Q. How much did you deliver to the man? A. Well, I
1347] thought it was around two cases.

Q. All right. That was Martin Edwards' whisky was it not, you were delivering? A. Yes, sir.

Q. Now how did you know to go to that place? A. Well, he told me exactly where it was, the first house on that side of the railroad tracks on north Lansing.

Mr. Crawford: All right, you may inquire.

Cross-examination by Mr. Hickman

Q. Mr. Barrentine, during the time you have been in the liquor business for yourself have you had a retail liquor

dealers stamp? A. Yes, sir, I have.

Q. Was there times when you were not in business for yourself, but worked for other liquor dealers and you didn't have a stamp? A. No, sir.

Q. But all the time you have been in the business as a dealer yourself you have paid the Government the tax and procured the stamp? A. I have.

Mr. Hickman: That's all.

1348] Cross-examination by Mr. Malloy

Q. Mr. Barrentine, directing your attention to your testimony relative to 1953 when you worked for Lee Johnson, particularly to your testimony with relation to the ten cases that you have testified to here: As I understand your testimony now, those ten cases were put in an automobile which you accompanied -- A. It was already in the automobile.

Q. I see. Go ahead. A. He pulled the car into my garage and unloaded what I thought was around fifteen -- that is our usual load, fifteen or twenty cases, -- pulled it into my garage and we unloaded it and left the remaining liquor in the car he put in the garage; then we went and met Bob Massey -- which I thought was Bob Massey.

Q. How much do you say then was in the car now that -- maybe I didn't follow this too well; did you have a load in the car you were riding in? A. Yes, sir.

Q. About how much did you have in that -- A. Wait a minute, you have me confused.

Q. I'm not trying to, I'm just trying to follow it myself. A. Lee Johnson pulled his car into my garage, with a load of whisky; I helped him unload ten or fifteen cases in my house.

1349] Q. Yes. A. And there was whisky still in the car he pulled in my garage with.

Q. Okay. A. So I got in the car with him and went to meet Bob Massey.

Q. Now what did you do, did you switch cars then? A. Then we got out of our car and got into his car; he drove our car and we drove his car.

Q. Now, what I am getting at, is, you unloaded some whisky out of the car that was driven into the garage so that there

was some whisky left in the car that you turned over to Massey, is that right? A. Yes, sir, -- yes, sir.

Q. Now, how many cases were in the car you turned over to Massey? A. Well, my judgment, looking at whisky in a car, stacked in there, I would judge there was ten cases, something like that.

Q. You don't know of course whether that whisky was sold to Massey, whether it was loaned to Massey, whether it was repayment of a loan, or what, did you? A. I didn't see any money exchanged, if that is what you mean.

Q. That's right -- that's right. Now then, directing
1350] your attention to Martin Edwards, to the period you worked for him in 1954, is that right -- A. Yes, I would say it was about 1954 I worked for Martin Edwards.

Q. And you have testified that you made a delivery to a street over -- North Lansing. A. North Lansing, yes, sir.

Q. And where were you when you got the order to make that delivery? A. I was at home.

Q. At your house? A. Yes, sir.

Q. And Martin called you, and he called you to make the delivery. A. Martin called me.

Q. And told you to make a delivery <u>this</u> this man over there, is that right? A. Yes, sir.

Q. Do you remember how many lugs it was, Merle, approximately? A. Well, the reason I think it was about two cases was because I made <u>to</u> trips into the house; you couldn't carry two cases of half pints in lugs.

Q. Well, do you remember about how many lugs, that is the
1351] question, your best guess -- best estimate -- you are not sure actually how many lugs or how many cases, are you, exactly? A. No, I'm not real sure.

Q. All right. A. But I think it was about two cases anyhow.

Mr. Malloy: That's all.

The Court: That's all.

Mr. Crawford: That's all.

A.D. MILLER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. You have previously testified in this trial, have you not, Mr. Miller? A. Yes, sir.

Q. Now, during the time that you worked for F.A. Griffing, did you ever deliver any moneys for him to the home of Bob Massey? A. Yes, sir.

Q. How much money would you deliver on each occasion? A. $200.

Q. Was that money delivered in cash? A. Yes, sir.

1352] Q. And who did you give the money to the first time?

A. Mrs. Massey, I believe.

Q. All right; who did you give the money to the second time? A. I don't remember whether it was her or him.

Q. And what did -- what did Griffing tell you when he gave you the money? A. Take it by Bob Massey's house and leave it.

Q. Do you recall the month of these deliveries by you of the money? A. I sure don't.

Q. Well, was it during the fall of the year 1956? A. It was either in July or after August, -- I know it wasn't in August.

Q. And do you recall approximately how many times you delivered money from Griffing to the Massey home or to Bob Massey? A. I think it was twice.

Q. Is twice all you remember? A. Yes, sir.

Mr. Crawford: You may inquire.

Cross-examination by Mr. Malloy

Q. Mr. Miller, in other words, your testimony is that you made two deliveries of money or rather you took money by Bob Massey's house? A. Yes, sir.

1353] Q. During that particular time, is that right? A. Yes, sir.

Q. You worked for -- or worked for Mr. Griffing for some period of time, haven't you, Mr. Miller? A. Yes, sir.

Q. As a matter of fact, didn't you pay all types of bills

for Mr. Griffing? A. Yes, sir.

Q. Utility bills? A. Nearly everything.

Q. In other words, you just took care of the entire operation with respect to bills, didn't you? A. Yes, sir.

Q. As a matter of fact, hasn't Mr. Griffing purchased whisky from Massey on occasions? A. Once I think, or twice -- I don't remember.

Q. Mr. Griffing never did tell you what this money that you were supposed to take this money by, what it was for, did he? A. No, sir.

Mr. Malloy: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Miller, you are working for Mr. Griffing at this
1354] time, are you not? A. Yes, sir.

Mr. Crawford: That's all. You may step down.

CHARLES FETTER, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Charles Fetter.

Q. Mr. Fetter, you have been in the liquor business in and about the City of Tulsa on occasions, have you not? A. Yes, sir, I have.

Q. Do you know Leo Jackson? A. Well, I know Mr. Jackson by sight.

Q. Do you know Jim Harp by sight? A. Yes, sir.

Q. Do you know Johnnie Cole by sight? A. Yes, I do.

Q. Do you know them to have been during the past year members of the raiding squad? A. Yes, sir.

Q. Have you ever had occasion to see them out in the vicinity of 11th and Admiral?

1355] Mr. Hickman: 11th and Admiral -- those streets run parallel.

A. I would say that would be a difficult place --
Q. (By Mr. Crawford) Let me withdraw that; it would be difficult.
Have you seen them in the -- near Admiral or 11th Street? A. Well, sir, I believe that I have seen them several places in their and my travels through the city. I have seen them by my house a good many times.
Q. Do you know other people who are engaged in the liquor business? A. Yes, I know a few people.
Q. All right, who are some that you know? A. Well, there is George Mose, he was a partner of mine; there is Martin Edwards, and I don't know his brother, Bill -- I have seen him up here but I don't know him. There is Mr. Rucker.

The Court: Wait just a minute.
Come to the Bench if you will.

(Thereupon Mr. Crawford, Mr. Hickman and Mr. Malloy conferred with the Court at the Bench.)

Mr. Crawford: That's all, Mr. Fetter.

1356] GEORGE MOSE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. George Mose.
Q. And Mr. Mose, you have been engaged in the liquor business here in and about the City of Tulsa for sometime, have you not? A. Off and on, yes, sir.
Q. Have you ever purchased any liquor from Martin Edwards? A. Yes, sir.
Q. And when did you purchase liquor from Martin Edwards? A. Well, it has been at various times; I don't remember any dates.
Q. Well, has it been during the year 1956? A. Early part of '56, I believe.
Q. And did you purchase from him over a period of months? A. No, I don't believe -- it was just two or three different times there.

Q. All right, how much did you buy from him each time, approximately? A. Well, it varies; sometimes even just a case or a couple of cases or more.

Q. And were those purchases made by transfer here in the 1357] City of Tulsa? A. I believe it was out in the county.

Q. Was anybody else present at the time of the transfer? A. Yes, I believe there was.

Q. All right now, Mr. Mose, did you have anybody working for you in your business? A. No, sir.

Q. You haven't been making any payments to anybody for protection from the city, have you? A. No, sir.

Q. Did you start in the business again in October of '56? A. I believe that's right.

Q. And how long were you in the business before you were raided by the city? A. Oh, probably two or three weeks, maybe less.

Q. And who were the members of the raiding squad that raided you, do you know? A. Well, I believe it was Mr. Harp, Mr. Cole, -- I don't recall whether any more was there or not; I guess there was more there, but that was the only two I talked to.

Q. During the past year about how many times have you been raided by the city raiding squad? A. Well, I was just in business about four months this time, because after I was up here, I -- last, I have been, say, a little there, four months I would say -- six -- half a dozen times, maybe more, maybe less, I'm not positive, but I would say a half a 1358] dozen times.

Q. During that four months' period? A. Yes, sir.

Q. You tried to evade the city squad, did you not? A. Of course.

Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Do you have a liquor dealers stamp? A. Beg pardon?

Q. A liquor dealers stamp? A. Yes, sir.

Q. Every time you were in business you paid the Government the $50 tax and procured a stamp to engage in the business? A. That's correct.

Q. The evidence that you paid the tax, you got a stamp?

A. I have a stamp, yes.
Q. Have one now? A. Yes.
Q. For the current year? A. Yes.

Mr. Hickman: That's all.

Cross-examination by Mr. Shortridge

1359] Q. You were in the retail business were you not, Mr. Mose? A. Yes, sir.
Q. As a matter of fact, you have hauled some whisky from Missouri prior to April 1951; that's the first time when the Enforcement Act was off, have you not? A. I think it was in the winter or spring of '50, I believe.

The Court: That would be improper cross-examination.

Mr. Shortridge: Yes, sir. I would like to ask another question along that line.

Mr. Crawford: It is improper; we object, Your Honor.

The Court: Improper cross-examination.

Mr. Crawford: If he wants to call the witness we have no objection to that.

Mr. Shortridge: The witness will remain in attendance?

The Court: Well, you can have him back if you care to. That's all.

1360] MARSHALL L. SHARP, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Marshall L. Sharp.
Q. Mr. Sharp, you have been engaged in the liquor

business here in the City of Tulsa for sometime, have you not? A. Yes, sir.

Q. Where is your place of business, Mr. Sharp? A. 802 North Quaker.

Q. How far is that from a place of business of John Hood? A. About, approximately two blocks.

Q. Do you know the address of John Hood's place? A. It is the corner of Quincy and Haskell.

The Court: Speak a little louder, please, Mr. Sharp, -- a little more distinctly, if you will.

Q. (By Mr. Crawford) All right. And are both of those places, the one there at Quincy and Haskell and the one of yours operated as what we might call walk-in's? A. Yes, sir.

Q. And liquor is sold at both places, is that correct? A. Yes, sir.

Q. Now, Mr. Sharp, have you had any conversation with John Hood with regard to getting into a pay-off system?

A. I asked him one time about it.

1361] Q. And what did he say? A. He said --

The Court: He said -- when was this conversation you had with him?

A. It was last August sometime.

Q. (By Mr. Crawford) 1956? A. Yes, sir.

Q. All right, what did he say? A. He said he would try to help me out.

Q. Did he ever let you in?

Mr. Malloy: Now, wait a minute if Your Honor please, that is not a proper question.

The Court: I sustain the objection.

Q. (By Mr. Crawford) Did you talk with him again after he said that he would try to help you out? A. Just over the phone.

Q. What did he say over the phone? A. Said he couldn't get me straightened out.

The Court: Said what -- I can't hear you.

A. He couldn't get me straightened out.

Q. All right now, Mr. Sharp, during the year 1956 have you or have you not been raided by the city raiding squad? A. Yes, sir.

Q. And about how many times a month have you been raided 1362] by the city raiding squad? A. I don't know exactly; it was approximately, oh, -- anywhere from two to three times.

Q. And when they came out did they have a warrant for your establishment? A. Most of the time they did -- most of the time they just happened to run up on me.

Q. Do you know Leo Jackson? A. Yes, sir.

Q. Do you know Jim Harp? A. Yes, sir.

Q. Do you know Johnnie Cole? A. Yes, sir.

Q. Did those officers participate in the raids on your establishment? A. Yes, sir.

Q. Now, Mr. Sharp, you didn't pay any money into this protection payment organization did you? A. No, sir.

Q. And do you know -- would the address on John Hood's place that you refer to there at Quincy and Haskell be approximately 1351 East Haskell? A. Yes, sir.

Q. Do you know whether or not during this year 1956 -- or let me put it this way: From about May 8, 1956, until about December 13, 1956, do you know the average number 1363] of times a month, if any, John Hood was raided? A. I wouldn't know, sir.

Q. Do you know of any times he was raided during that time? A. No, sir.

Q. Did you ever have any conversations with either Cole, Jackson or Harp, with regard to the raids they made upon your place? A. I just asked them one time --

The Court: You don't know the person that you were talking to?

A. Leo Jackson, but it was on a raid --

Q. (By Mr. Crawford) Did you talk to him about John Hood at the time? A. I believe I said I just spoke to him about, I didn't want to be the goat of the whole neighborhood.

Q. What did he say to you? A. He said, I am sorry,

Marshall, but he didn't know anything about it.

Q. Where is your place located with regard to Jackie Hood's? A. It is about two blocks.

Q. Two blocks away from your place? A. Yes, sir.

1364] Q. And do you know her place to be a walk-in liquor place? A. Yes, sir.

Q. Do you know whether or not from May 8, 1956, until December 13, 1956, she was raided? A. I believe in the latter part of the year she was.

Q. Could that have been since December 13, 1956? A. I really wouldn't remember; it was around that time or something like that.

Q. Do you know of your own knowledge how your business in volume compares with, or compared with that of John Hood, and at 1351 East Haskell?

Mr. Malloy: I object to that as calling for a conclusion.

The Court: First let him answer the question whether he knows.

A. Well, I don't believe I had as much.

Mr. Crawford: All right, that's all.

Mr. Malloy: I move that last answer --

The Court: I didn't hear that -- the answer will be ordered stricken and the Court advised not to consider it.

Mr. Malloy: Thank you.

Cross-examination by Mr. Malloy

Q. Mr. Sharp, you occupied a place at 802 North Quaker, is that right, sir? A. Yes, sir.

Q. You kept referring to this place, 1351 East Haskell, 1365] as John Hood's place. A. I don't keep referring to it.

Q. Mr. Crawford does, and you say that is so. A. Yes, sir.

Q. Bob Hanson has been there for three years at least, hasn't he? A. That is what I understand.

Q. So you really don't know whose place that is at 1351 except you see Bob Hanson there. A. That's right.

Q. Now with respect to Jackie Hood, Mr. Sharp, it is not your testimony here as to how many times Jackie Hood's place has been raided; you don't know, do you? A. No, sir.

Mr. Malloy: That's all.

Cross-examination by Mr. Hickman

Q. Do you have two liquor establishments? A. No, sir.

Q. You have liquor dealers stamp, don't you for 1225-1/2 East Admiral in connection with J.C. Sandbourn? A. I thought I cancelled that last September.

Q. Well, you did buy one in July? A. Yes, sir.

1366] Q. Were you and Sandbourn partners at that address in the liquor business? A. Yes, sir.

Q. Who is Dyrus Sharp? A. That's my wife.

Q. Well, for the business at 802 North Quaker the tax was paid by you and your wife and the stamp is in the name of you and your wife? A. Yes, sir.

Q. You never have engaged in the retail liquor business without having complied with the payment of the Government tax therefor, have you? A. Will you repeat that question.

Q. You have always paid the Government tax? A. Yes, sir.

Q. And procured a retail liquor dealers stamp? A. Yes, sir.

Mr. Hickman: That's all.

Mr. Shortridge: You never were in the wholesale business were you, Mr. Sharp?

A. No, sir.

Mr. Shortridge: That's all.

1367] WILLIAM J. GIBSON, called as a witness on behalf of the Government, testified:

Jay L. Jones et al. vs. United States of America

Direct Examination by Mr. Crawford

Q. State your name, please. A. William J. Gibson.
Q. Mr. Gibson, you are an investigator with the Alcohol and Tobacco Tax Unit, are you not? A. Yes, sir.
Q. How long have you been so employed? A. About fifteen years.
Q. Mr. Gibson, you have during the past few years been assigned to the City of Tulsa office, is that correct? A. Yes, sir.
Q. And do you recall -- I am sure you do, a raid on December 13, conducted in conjunction with your office here in the City of Tulsa? A. Yes, sir.
Q. And how many -- how many locations were raided at that time? A. Twenty.
Q. How many agents participated in the raids? A. Forty-two.
Q. Were those raids simultaneous and individually conducted, or staggered? A. They were simultaneous.
Q. And prior to that time had you conducted an extensive 1368] investigation into that general area? A. Yes, sir.
Q. Mr. Gibson, do you recall a raid upon the premises of Frank Fletcher? A. Yes, sir.
Q. Do you recall what was seized there?

Mr. Hickman: We object to that on the ground it is incompetent, irrelevant and immaterial, not within the issues of this case.

A. Yes, sir.

The Court: What is the purpose of the -- come up here, let me talk to you about the purpose of the question.

(Thereupon Mr. Crawford and Mr. Hickman conferred with the Court at the Bench.)

The Court: State the purpose for which the question is asked.

Mr. Crawford: The purpose for which the question is to show that Frank Fletcher was engaged in the liquor business.

The Court: All right.

Mr. Crawford: I would be pleased to elaborate on that unless that is sufficient.

The Court: The question is admissible for that purpose. There has been I believe testimony on the part of Bill Edwards that --

A. We seized twenty gallons of home brew, and we seized nine half pints of Gilbey gin, and one fifth of Gilbey gin, one fifth of Vodka; two half pints of John Beam whisky, seven half pints of H & H whisky, one pint of James E. Pepper whisky --

Q. I believe that is sufficient, Mr. Gibson, to establish the purpose of the question.

The Court: Anything further?

Mr. Crawford: Yes, Your Honor, if I may.

Q. (By Mr. Crawford) Mr. Gibson, these agents that participated in this raid were all Government agents were they not, Federal Government agents? A. Yes, sir.

Q. Did you notify, or do you know whether or not any city officers were notified in advance of the raid? A. I didn't notify any one, no, sir.

Q. You were in charge of the local acticities in conjunction with my office, is that right? A. Yes, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Hickman

Q. Frank Fletcher, was that his name? A. Yes, sir.

Q. Did he have a liquor dealers stamp? A. Yes, sir.

1370] Q. What did you charge him with? A. Well, moonshine and home brew.

Q. Oh, the home brew and the moonshine? A. Yes, sir.

Q. You didn't charge him with illegally possessing the whisky? A. The moonshine or the home brew.

Q. Or the gin or the Vodka? A. No, sir.

Q. That was permissible under his stamp? A. We seized the whisky; the whisky was contraband, whether he has a stamp or not. But we didn't charge him with the selling of tax paid whisky.

Q. Well, why was it contraband?

The Court: Well, that is immaterial.

Q. (By Mr. Hickman) But the charge was having moonshine whisky where the tax wasn't paid, and that was home brew?

Mr. Crawford: We object as repetitious, Your Honor.

The Court: Sustained as repetitious.

Mr. Shortridge: I move that all mention of moonshine, non tax paid whisky, home brew, be stricken and the jury instructed to disregard it because it is beyond any charge in the indictment.

The Court: Overruled. The purpose of allowing the 1371] testimony at all with reference to Frank Fletcher --
Frank Fletcher is not a defendant in the case, not on trial; the Government offered this evidence to corroborate the testimony of Bill Edwards with respect to Frank Fletcher. As I recall Edwards identified Fletcher as one of the persons who paid some money to Scoggins, the defendant Scoggins; and that is the sole purpose for which the evidence is admitted.
That's all.

* * * * *

Mr. Crawford: If the Court please, we request that we call Ben Bly for further redirect examination on his testimony yesterday.

The Court: All right.

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1372] BEN LEONARD BLY, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Bly, what was the primary reason you went out to Bill Edwards' home last Wednesday night? A. Well, after we talked about a half an hour, we were in his bedroom, and talked -- about the buying -- he wanted me to pay for part of the appeal on a car, on a state case.

Q. That is a case similar -- did you have one similar to the one he has? A. Yes, sir.

Q. And you talked with regard to the fact that a decision in both cases -- in one case might control the decision in the other one? A. Yes, sir.

Q. This was a private conversation between you and Bill Edwards, is that right? A. Yes, sir.

Q. Now, was it after that, in casual conversation that you heard this statement you made yesterday? A. It was before we went into the bedroom.

Q. And what exactly do you remember to your best recollection he said in so far as the defendants in this case being convicted are concerned. A. Well, he said that if we are ever to do any good in the liquor business that we would have
1373] to get the defendants convicted -- that is the impression I got.

Q. That is the impression you got, but that is not exactly what he said is it, Mr. Bly? A. Not exactly the way I said it.

Q. Isn't it a fact he said, in a joking way, that if these defendants were not convicted we would all have to leave town.

Mr. Rucker: If Your Honor please, we object to that as leading and suggestive.

The Court: Overruled.

A. Say that again.

Q. (By Mr. Crawford) Isn't it a fact that he said in a joking way, that if the defendants were not all convicted that we would have to leave town. A. He said something about

leaving town, yes.

Q. And from that then you drew an impression that he said what you testified to yesterday, is that correct?
A. Yes, sir.

Mr. Crawford: I don't think any further examination is necessary, Your Honor.

The Court: Was any other person present at the time that conversation occurred?

A. I believe Bill's wife and some other boy was there.

1374] The Court: Some other boy?

A. Yes, sir.

The Court: Who was the other boy?

A. I don't know; I think it must be a guest of Edwards' -- either a guest or a -- an employee, or a friend, I don't know.

The Court: A young boy?

A. Yes, sir, I wasn't trying to hurt the defense or hurt the Government.

The Court: Just answer the questions -- just answer the questions. You don't recall the name of the young man that was present at the time the statement was made? A. No, I don't -- I sure don't.

The Court: All right. Cross-examination?

Mr. Ungerman: No questions.

Mr. Crawford: I have that boy available, Your Honor, that was present at that time.

The Court: Well, I have no suggestions.

Mr. Crawford: Well, let me have him take the witness stand if I may -- will you step down, please?

DANIEL RANDOLPH SOHL, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Daniel
1375] Randolph Sohl.
Q. Do you know John Bill Edwards? A. Yes, sir.
Q. Are you a friend of his boy's -- of one of his boy's? A. Friend.
Q. Yes. How old are you, Dannie? A. Twenty-one.
Q. Did you have occasion to be in the home of Bill Edwards and his family last Wednesday night? A. Yes, sir.
Q. And did you meet a man there by the name of Ben Bly? A. I didn't meet the man, sir; I wasn't introduced to him.
Q. Did you hear a conversation that took place between he and Bill Edwards? A. Yes, sir.
Q. Did you hear Bill Edwards say anything about the defendants in this case being convicted? A. Yes, sir.
Q. Would you relate that conversation or that statement by Bill Edwards to the jury, please. A. Mr. Edwards said in a joking way that if the defendants were committed that he and Bill -- well, excuse me, he said that the two parties would probably have to leave town.

Mr. Crawford: That's all. You may step down.

1376] The Court: Any questions? That's all.

JOE McGUIRE, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please, sir. A. Joe McGuire.
Q. Mr. McGuire, you are a police officer of the City of Tulsa Police Department are you not? A. Yes, sir.
Q. How long have you served in that capacity? A. Since October 1928.

Q. Mr. McGuire, you served as chief of police here recently, did you not? A. Yes, sir.

Q. And for how long a period of time? A. From May 1953 to May 1956.

Q. Now, Mr. McGuire, during that time did you have occasion to observe the defendant Cliff Wells on occasion? A. I have, sir.

Q. Did you ever see him around the vice squad room? A. Yes, I have.

Mr. Smith: If the Court please, just a moment, I object to that as being incompetent, irrelevant and immaterial unless the District Attorney wants to make an offer further than 1377] the evidence went yesterday.

The Court: Overruled.

Q. (By Mr. Crawford) You have seen him around the vice squad room? A. Yes, sir.

Q. Now has he ever been present, Mr. McGuire, when search warrants were issued? A. Do you mean in the vice squad?

Q. Well, any place there in the station -- where are the search warrants normally issued from? A. The Court Clerk's office, upstairs on the second floor.

Q. Where did they go -- where do they go from the Court Clerk's office? A. They come back to the vice squad.

Q. And have you seen him in the vicinity of those warrants after they have been issued? A. Yes, sir.

Q. And have you seen him endeavor to see those warrants?

Mr. Smith: If the Court please, I object to that as being incompetent, irrelevant and immaterial.

The Court: Overruled.

A. Well, I couldn't say that he endeavored to see them.

Q. (By Mr. Crawford) Well, have you seen him hurrying to a telephone after the warrants were issued?

1378] Mr. Malloy: If Your Honor please, we object to that.

Mr. Smith: Just a moment, if the Court please; that's entirely improper and irrelevant.

The Court: I will sustain the objection.

Mr. Crawford: All right, sir, may I approach the Bench with Mr. Smith?

(Thereupon Mr. Crawford and Mr. Smith conferred with the Court at the Bench.)

Mr. Crawford: That's all, Mr. McGuire.

Mr. Malloy: Just one question, Joe, if I may, please.

Cross-examination by Mr. Malloy

Q. The vice squad room is located on the first floor of the police station, isn't it, Joe? A. That's right.
Q. And in connection with four or five other offices that are on the same floor, in which there are policemen in and out of them daily, all the time? A. That's correct, yes.
Q. The other people on the first floor, whoever has any business on the first floor, which might mean scores of people a day, walking up and down, police officers, chiefs, sergeants, lieutenants, is that right? A. Correct.
Q. In other words, the vice squad room isn't a room stuck 1379] up in some corner in a hidden place, is it? A. No, sir.

Mr. Malloy: That's all.

Mr. Smith: If Your Honor please, I move to strike the evidence as irrelevant.

The Court: Overruled.
All right, that's all, officer.

BENNIE STEWART, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Bennie Stewart.

Q. What is your business or occupation, Mr. Stewart? A. Run a supper club.

Q. Is that out on the Tulsa-Creek County line? A. Yes, sir.

Q. You have been in the gambling business have you not, Mr. Stewart? A. Yes, sir.

Q. Do you know the defendant Cliff Wells? A. Yes, sir.

1380] Q. Do you know the defendant Martin Edwards? A. Yes, sir.

Q. Do you know anything about their association together?

Mr. Malloy: Object to that if Your Honor please.

Mr. Smith: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection overruled; he may answer.

A. How do you mean it?

Q. (By Mr. Crawford) Well, to begin with, have you been with them on social affairs? A. I have been out to dinner with them, yes, sir.

Q. Were there other couples besides you, the Wellses and the Martin Edwardses? A. At that particular time that's all there were.

Q. Have you seen them together in each other's home? A. I have saw Martin Edwards over at Cliff Wells' home.

Q. Do you know of any business adventure -- any business venture that they are engaged in together? A. No, sir.

Q. Do you recall a conversation with Cliff Wells with regard to the Jereco Club? A. In what way do you mean?

Q. In regard to who had the lease on the Jereco Club?

Mr. Smith: I would like for the time to be fixed.

1381] The Court: I don't know yet whether he had a conversation about it or not.

A. I knew that Cliff Wells had the lease on it, yes, sir.

Q. (By Mr. Crawford) Did he ever tell you that? A. That he -- yes, sir.

The Court: And when did he tell you that -- about what date?

A. Well, I don't -- I wouldn't have any idea what date it was.

The Court: What year was it?

A. Oh, it must have been '54 -- '53 -- somewhere along in there.

Mr. Crawford: That's all.

Mr. Malloy: If Your Honor please, I move that the testimony be stricken, certainly with respect to the defendant Martin Edwards; I don't think there is any -- value to any of the answers given.

The Court: I will sustain the motion.

Mr. Smith: I move to strike it on behalf of the defendant Cliff Wells.

The Court: I don't think it can disclose any issue in the case.

Mr. Smith: I would like the Court to admonish the jury not to consider it.

The Court: I sustain the motion to strike, yes, sir,
1382] it is immaterial; there isn't anything prejudicial about it but it doesn't tend to prove any issue in the case.

The Witness: Am I excused; may I go home now?

The Court: Yes, you may be excused.

Mr. Crawford: So far as I am concerned he may be.

The Court: Yes, you may be excused.

JAMES ROBERT BIVENS, called as a witness on behalf of the Government, testified:

Jay L. Jones et al. vs. United States of America

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. James Robert Bivens.

Q. You are a police officer with the City of Tulsa Police Department, are you not? A. I am.

Q. And at one time, Mr. Bivens, you were in charge of the raiding squad? A. Yes, I was.

Q. Now when was that, Mr. Bivens, that you were in charge of the riading squad? A. March 1955, sir.

Q. And for how long a period did you serve in that capacity, Mr. Bivens? A. Approximately a year, sir.

Q. Approximately a year. During that time, Mr. Bivens, 1383] who did you have working for you in the raiding squad or working with you? A. In 1955, sir?

Q. Yes. A. The first-grade officers I had were Richard Carter, Charley -- excuse me, Marvin Hicks and Paul Smith.

Q. Did each of those men work an eight hour shift? A. Yes, sir.

Q. Do you recall, Mr. Bivens, the average amounts of liquor that you seized monthly while you were head of the raiding squad?

Mr. Malloy: If Your Honor please, -- maybe I better let him answer the question; I might be premature.

A. The average amounts of bottles, sir, or average amount of cases?

Q. The average amount of cases would be better.

Mr. Malloy: Just answer, yes, or, no, Bob, if you will, please.

The Court: The question is, do you recall?

A. Approximately, yes.

Q. (By Mr. Crawford) All right, and what was that average, Mr. Bivens?

Mr. Malloy: Now wait a minute, now we object, if Your 1384] Honor please. I believe there are proper records kept on this particular item; I think that they would be the

best evidence. As I understand the police records, there is a monthly tabulation made.

Mr. Crawford: I would like to ask this question, with additional questions --

Mr. Hickman: I would like to object also on the ground that it is incompetent, irrelevant and immaterial.

The Court: I am a little more impresses with that ground than I am the other.

Mr. Malloy: Either one will suffice, Your Honor.

The Court: You don't care on what ground it is thrown out. I doubt very seriously that it is material.

Mr. Crawford: Your Honor, I think it is in comparison to the previous year; I am endeavoring to show by this officer the method of operation prior to the time that some of the defendants became members of the raiding squad, and the requirements of the office and the duties on the individuals thereon.

The Court: I don't think the amount of whisky seized during any given period would necessarily tend to -- to have any probative value in this case.

Mr. Crawford: If Your Honor is correct I am in error; I was under the impression it might be.

The Court: You gentlemen approach the Bench and I will tell you what my idea about it is.

1385] (Thereupon counsel and the Court conferred at the Bench.)

The Court: Both objections overruled and the witness may answer the question.

Q. (By Mr. Crawford) Mr. Bivens, what were the monthly averages of cases of whisky which were seized by the raiding squad when you were in charge of it? A. The average of ninety to one hundred cases per month.

Q. Now, do you know the defendant Elmer Oakley? A. Yes, I do.

Q. Do you know Neal Williams? A. Yes, sir, only by sight, sir; I don't believe I have ever arrested him.

Mr. Gotcher: We ask that that voluntary answer be stricken -- I have never arrested him.

The Court: Yes, that will be ordered stricken and the jury is advised not to consider that statement.

Q. (By Mr. Crawford) Do you know Don Tex Rucker? A. Yes, sir.

Q. Do you know F.A. Griffing? A. Yes, sir.

Q. Do you know John Hood? A. Yes, sir.

1386] Q. Now, Mr. Bivens, over the past many years have you been on the raiding squad at other times? A. Yes, I have.

Q. And were you on the raiding squad from about the middle of 1952 to about the end of 1954? A. From March or from May 1952 until in January of 1954, I believe, sir, or '5 -- two years, twenty months, sir.

Q. Then you were on the raiding squad back in 1950 too, were you not? A. In 1950, from August until February of 1951.

Q. From those years of experience, Mr. Bivens, have you become acquainted with the manner in which these various defendants whom I mentioned operate their businesses? A. Yes, sir, and the -- yes, sir.

Q. Well, have you ever seized liquor from any of them? A. Yes, sir.

Q. And which ones have you seized liquor from?

A Martin Edwards, Tex Rucker, --

Mr. Gotcher: If Your Honor please, we object to the question for the reason that the defendant Rucker has already admitted he was in the business and had a retail liquor stamp -- always has had.

The Court: Overruled.

A. John Hood.

Q. (By Mr. Crawford) Well now, Mr. Bivens, are you

1387] familiar with the term "hamburger bootlegger'? A. Yes, sir.

Q. What does that term mean throughout the law profession here in Oklahoma? A. A minor bootlegger or a small-time operator.

Q. All right. And is there another category, a big-time operator? A. Yes, sir.

Q. Is there an in-between category? A. Yes, sir.

Q. What are the names given to the in-between and the big-time, just -- A. The average bootlegger or the big-time operators?

Q. From your years of experience, Mr. Bivens, in the raiding squad in what classification would you place the defendant Martin Edwards?

Mr. Malloy: Wait a minute, if Your Honor please; he hasn't even defined the category, or what he bases this expert opinion on at all -- object to it.

The Court: I am going to sustain the objection to that particular line of testimony; I think that calls for an expression of opinion and certain conclusions, and is to some extent based on reputation and hearsay. There has been evidence presented heretofore from which the jury may properly draw certain conclusions with respect to those matters.

1388] Mr. Crawford: I have no further questions of this this witness, Your Honor.

The Court: Any cross-examination?

Cross-examination by Mr. Malloy

Q. Bob, I just want to ask a couple of questions if I may. Do you have -- did you keep a log or a dairy of the number of cases that were seized during the time you were head of the raiding squad? A. Yes, sir.

Q. And you have that of course today in your present possession? A. No, sir.

Q. At the time that you were head of the raiding squad how many members were there on it? A. First, three, sir, and then four.

Q. Were you operating what you call two shifts at that time? A. When I had four men, yes, sir.

Q. When you raided the -- or rather arrested Martin Edwards, wasn't Jim Harp with you at that time? A. Yes, sir.

The Court: That's all.

1389] R.S. HUBBARD, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. R.S. Hubbard.

Q. You are a police officer of the City of Tulsa Police Department, are you not? A. I am.

Q. How long have you been so employed? A. Twenty-eight years.

Q. Where are you presently assigned, Mr. Hubbard? A. Detective Division.

Q. When were you assigned to the Detective Division? A. When I went to work there.

Q. Where do you report in the morning when you go to work Mr. Hubbard? A. Now?

Q. Yes. A. The jail.

Q. And how long have you been working as a jailer? A. Since July 4, 1957.

Mr. Hickman: You are mistaken, aren't you -- July 4, '57?

A. '56 I mean.

1390] Mr. Hickman: Oh --

Q. (By Mr Crawford) Now just prior to that time, Mr. Hubbard, did you have occasion to be in an establishment run by Dale Hines? A. I did.

Q. And will you relate to the jurors just what happened when you went there to Dale Hines? A. Well, I was setting there in the police car driven by Bill O'Neal, another policeman, and I waited in the car while O'Neal went inside and brought Dale out in the car. He seemed to be very muchly dissatisfied

with the protection he was getting from the Police Department.

Mr. Hickman: Just a moment; we move that that be stricken on the ground that that is a conclusion of the witness.

The Court: That motion is sustained and it is ordered stricken and the jury is advised not to consider the statement just made as to the frame of mind that Dale Hines seemed to be in. And, Mr. Hubbard, you should not make any voluntary statements. Now just answer the questions.

Q. (By Mr. Crawford) Was this address 206 South Detroit? A. It was.

Q. Did you see any gambling there? A. Not at that time.

Q. Well, did you see any at a later time? A. I did.

1391] Q. And did you have a conversation with Mr. --

Mr. Page: If Your Honor please, I am going to object to this testimony with reference to Dale Hines, as he is neither a defendant nor a co-conspirator in this case.

(Thereupon Mr. Crawford and Mr. Page conferred with the Court at the Bench.)

The Court: You may state whether you had a conversation with Hines, but you wouldn't be -- it wouldn't be proper for you to relate that conversation.

A. I understand.

Q. (By Mr. Crawford) Did you have a conversation with Hines? A. I did.

Q. And, Mr. Hubbard, were you transferred, or were you not, soon thereafter? A. Immediately.

Q. And were you transferred to the jail at that time? A. I was.

The Court: Is that transferred from the Detective Department to jailer considered a demotion?

A. It was a demotion.

The Court: Any reduction in pay involved?

A. Not in pay.

Q. (By Mr. Crawford) Is there a reduction in prestige? A. Definitely.

1392] The Court: Cross-examine.

Mr. Page: If Your Honor please, I move to strike that question and answer.

The Court: Overruled.

Cross-examination by Mr. Page

Q. Mr. Hubbard, were you on the raiding squad at the time you say you went to the Dale Hines residence? A. I didn't go to his residence. I took an oath to enforce all the laws, not just vice squad.

Q. I asked you, were you on the vice squad at the time you say you went to the -- to where Dale Hines was on that occasion? A. No.

Q. You weren't? A. No.

Q. You weren't assigned to it at all? A. Not the raiding squad; just all of it.

Q. All right, what department were you assigned to at that time? A. In the Detective Division.

Q. In the Detective Division? A. That's right.

Q. What division was O'Neal assigned to at that time? A. In the Patrol Division.

Q. In the Patrol Division; that is the Traffic Division, 1393] is it not? A. No.

Q. It is not? A. It is not.

Q. All right. Then you and -- did you go there with a search warrant? A. I didn't go in the place at all.

Q. Well, did O'Neal go there with a search warrant? A. I don't know.

Q. You don't know but you went with him? A. Yes. I remained in the car. He was a friend of Mr. Hines -- I wasn't.

Q. Oh. I see.

Mr. Page: I believe that's all.

Cross-examination by Mr. Malloy

Q. Mr. Hubbard, let me ask you just one or two questions, please, sir: I believe you testified you first went to work on the police department twenty-eight years ago, is that right, sir? A. That's right.

Q. But you haven't been on the police department for twenty-eight years, have you? A. Yes, I have a longevity rating of twenty-eight years.

Q. Weren't you off fourteen years? A. I was off the
1394] force; I was fired illegally, but the Court hooked up my longevity time.

Q. I see. A. Twenty-eight years.

Mr. Crawford: I might ask this witness one further question if I may, Your Honor, in view of Mr. Page's cross-examination.

Redirect Examination by Mr. Crawford

Q. Mr. Hubbard, during the past year 1956, has it been the policy of the Police Department for only the vice squad officers to make raids on gambling and liquor activities?
A. No, they take an oath they will enforce all the laws.

Q. Well, I am speaking with regard to the police in effect -- A. Yes, it was a policy, they wanted the officers to take orders from their respective departments.

Mr. Crawford: That's all.

1395] CHARLES L. BURRIS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Charles L. Burris.

Q. You are a police officer of the City of Tulsa Police Department, are you not? A. Yes, sir.

Q. How long have you served in that capacity?

A. Approximately ten years, sir.

Q. Now, Mr. Burris, what division were you assigned to just prior to December 8, 1956? A. Detective Bureau.

Q. Do you know a man by the name of Samuel Oakley? A. I don't know Samuel Oakley, no, sir.

Q. Do you know Elmer Oakley? A. Yes, sir, by reputation, sir.

Q. Did you have occasion on or about December 8, 1956, to arrest one of the Oakleys? A. Yes, sir.

Mr. Gotcher: To which we object as incompetent, irrelevant and immaterial; he says he knows Elmer Oakley only be reputation.

The Court: Objection overruled.

1396] Q. (By Mr. Crawford) And which one was it, Mr. Burris? A. That was Farrell Oakley.

Q. Do you know his relations to the defendant Elmer Oakley? A. I believe it is his son.

Q. Mr. Burris, did you confiscate anything in that arres A. Confiscated some whisky, yes, sir.

Q. Mr. Burris, were you soon thereafter transferred from the Detective Bureau? A. Yes, sir.

Q. What were you transferred to? A. Traffic.

Q. What are your duties now in the Traffic Bureau? A. Motorcycle officer.

Q. Would you consider that a demotion from the Detective Bureau to Motorcycle? A. It is not a demotion in pay, sir; it is more or less in your feelings.

Q. Is it a demotion in prestige? A. Yes, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Malloy

Q. Charlie, how long have you been on the force? A. Well, I am in my tenth year now.

Q. Would you say that most of your experience has been 1397] as a traffic officer? A. Yes, sir.

Q. About how much, would you go as far as eighty or eighty-five per cent? A. No, sir, Mr. Malloy, I was in the Patrol Division from '48 until the -- the middle of '48 and th

I went on the Traffic Bureau, and then '50, I got called back to active duty in the service, and shortly after that I went on the detective -- about fifty-fifty.

Q. You are qualified as a motorcycle operator? A. Yes, sir.

Q. And of course as a traffic investigator? A. Yes, sir.

Q. You are well qualified for the position as traffic officer, aren't you? A. Yes, sir.

Redirect Examination by Mr. Crawford

Q. Mr. Burris, were you transferred by Mr. Livingston, the then chief of police? A. I received a letter from Chief Livingston.

Q. Did you ask Mr. Livingston why you were transferred? A. Yes, sir.

Q. What did he say? A. Well, at first Mr. Livingston 1398] wouldn't tell me why I was transferred. Shortly before I was transferred I ran for election for sheriff of Tulsa County and I was told that the pressure --

Q. Was this by Mr. Livingston that you were told -- A. Yes, sir.

Q. All right. A. Paul told me that I was transferred particularly because there was some pressure brought on me from the south end of town, and told me it was for my own benefit, and I believed him, and that was all of it.

EARL SPYBUCK, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Earl Spybuck.

Q. How long have you been a police officer with the City of Tulsa Police Department? A. About three and a half years.

Q. Where were you assigned, Mr. Spybuck last summer, for instance? A. I was in the Detective Bureau, working a general assignment.

1399] Q. And Mr. Spybuck, did you have occasion during the fall of 1956 or early 1957 to question bootleggers on various payoff rumors? A. Yes, I did.

Q. And did you appear before a Federal grand jury here in January 1957? A. Yes, I did.

Q. Mr. Spybuck, subsequent to those investigations that you were conducting, or the questioning that you were doing, were you transferred? A. Yes, sir.

Q. And where were you transferred to? A. City Dog Pound.

Mr. Crawford: I have no further questions, --

Q. (By Mr. Crawford) Who transferred you, Mr. Spybuck? A. The order was signed by Chief Livingston.

Mr. Crawford: That's all.

The Court: That's all.

1400] QUINCY JACOBS, JR., called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. State your name, please. A. Quincy Jacobs, Jr.

Q. You were formerly a police officer with the City of Tulsa Police Department, were you not? A. Yes, sir.

Q. Directing your attention, Mr. Jacobs, to last September or early October, 1956, did you have occasion to see the defendant Martin Edwards? A. Yes, sir.

Q. Was this during the daytime or nighttime? A. It was in the nighttime about 10 o'clock.

Q. Will you relate to the jurors where you first saw him? A. Well, they were coming out on East 11th from the GMC truck business over there which I was asked to kind of keep an eye on it; I stopped them, and I never knew Mr. Edwards at the present time --

Q. Do you mean at that time? A. No, sir.

Q. All right. A. I at that time asked him -- I

started to stop and talk to him, started to get out of the car, and he taken off -- I could see him a few minutes; he taken off in his car, and I started chasing him, turned on the
1401] siren, and he started to turn into 68 East, on 11th, and I had to fire a shot in the air to get him to stop.

Q. When you stopped him did you have a conversation with him? A. Yes, sir, he said, you have caught me.

Q. What did he say? A. He said, You have got me; and he said, I have got a load. I said a load of what; and he said, a load of whisky.

Q. And did he have a load of whisky? A. Yes, sir.

Q. And what did you do then? A. Well, I called my sergeant.

Q. Did you take him to the Police Station? A. Yes, sir, I went to -- well, I took his car; he had a spotlight in the back end of the car; there was a lug of whisky broken in the back end; I seen it was whisky, and I got in my car and I called my sergeant; I started unloading the whisky out of the car, and the sergeant asked me, why don't you let him drive the car to the station. I said, I have the whisky nearly loaded, I will let him go ahead and I will follow him down. And I believe Jim Harp came out where we was at, on 68th Street.

Q. Was Mr. Martin Edwards booked at that time? A. Yes,
1402] sir, he was booked.

Q. Now, Mr. Jacobs what division were you assigned to at the time you arrested Mr. Edwards? A. I was assigned to the patrol division.

Q. All right. And were you transferred soon thereafter? A. Yes, sir, in the first of -- November, I got the orders from -- request by Jay L. Jones for me to be transferred to the City Dog Pound.

Q. Were you transferred to the dog pound? A. Yes, sir, I was transferred to the City Dog Pound.

Mr. Crawford: All right.

Cross-examination by Mr. Malloy

Q. Your name is -- what is that name again? A. Quincy Jacobs, Jr.

Q. And when did you join the police force, Mr. Jacobs first? A. In October 1953, on the 17th day of October.

Q. And what division were you assigned to at that time, please, sir? A. Traffic -- working a corner on 5th and Boulder.

Q. And when was this incident that you referred to here, please, in connection with Martin Edwards and this car, and the -- and so on? A. Do you mean when did I catch him?

Q. Yes, what was that date? A. It was in September 1403] I believe along about the 26th or 27th, I'm not for sure; I have never looked at the date.

Q. Of 1956? A. Yes, sir.

Q. What division were you in at that time? A. Patrol division.

Q. Well, were you in the raiding squad? A. No, sir.

Q. What were you watching this GMC place for? A. Well, the door was open one night to the place, when I looked down it was open; he asked me, would I kind of keep an eye on it every once in a while, and if I noticed anything would I call him, and I said, Sure.

Q. In other words, You weren't watching for any whisky surveillance or anything? A. No, sir.

Q. It was at that time as I understand it that you saw Martin Edwards drive up? A. Well, I seen two cars coming out -- one went one way, one another. I was going down East 11th, -- coming across there, went down East 11th, and pulled in there, and I stopped to talk to him, I didn't know who the gentleman was.

Q. You didn't know him at the time? A. No, sir, I 1404] didn't know him at the time.

Q. You stopped; he took off? A. Yes, I asked him if I could talk to him; he taken off.

Q. And I understand you chased him and finally caught him? A. Yes, sir, after I fired a shot in the air to stop him, I caught him.

Q. You caught him. Now then where was the whisky in the car? A. In the back seat.

Q. And of course you didn't have any warrant for his arrest at that time or anything did you? A. No, sir.

Q. Was the whisky that you got all in the back seat, and not in the trunk, or where was it? A. It was all in the back seat.

Q. Do you remember how much there was when you started to unload it? A. Well, I don't know how much there was when

I started to unload it, but when I went and unloaded it all and taken it into the station --

Q. Just answer the question, do you or do you not know how much was in the car at the time you started to unload? A. No, sir.

Q. Were you by yourself or with anybody? A. I was with a CD officer.

Q. Who? A. With a CD officer.

Q. What is his name? A. I don't recall his name right now, but I can find out.

Q. Well, does he customarily ride with you in the patrol? A. No, sir.

Q. Had he ever ridden with you before? A. No, sir.

Q. Has he ever ridden with you since? A. No, sir. I was sent to the dog pound after that; I never was riding.

Q. All right, when were you transferred to the dog pound? A. First of November.

Q. Well, this was September, wasn't it? A. Yes, sir, the last of September.

Q. Then you went out there in November? A. Yes, sir.

Q. All right now, but this CD officer, you don't know what his name is or anything like that? A. I think his last name was Tate.

Q. All right now, you have a radio connection with the police station, is that right? A. Yes, sir.

Q. Now is that -- you got in touch with your sergeant? A. Yes, sir.

Q. Down at the station? A. He was in the patrol car.

1406] Q. He was your sergeant? A. Carroll Griffin.

Q. Who? A. Sergeant Carroll Griffin.

Q. How long was it then before anybody arrived on the scene? A. Just a few minutes.

Q. Who was it who arrived there? A. One of the patrol cars came by, I don't know for sure, he came by, and then the sergeant came.

Q. Your sergeant? A. Yes, sir.

Q. When did Harp arrive? A. He arrived, oh, I guess about five or ten minutes later.

Q. Now, while you were out there, while they were transferring this whisky, was the whisky transferred to your car? A. Yes, sir.

Q. Now, officer Harp was there wasn't he? A. Yes, sir,

he wasn't there when I started transferring the whisky.

Q. When you are in the patrol division and you stop
1407] somebody and find they have whisky, isn't it the customary policy for you to call the raiding squad?
A. Not to my knowledge it isn't; my commission reads the same as theirs.

Q. Why is it your said you started loading this whisky, because Harp wasn't there, wasn't that unusual?

Mr. Crawford: I don't believe he said that, Your Honor.

The Court: That wasn't -- that wasn't my recollection of his testimony.

Mr. Malloy: Well, let me -- I thought it was, if Your Honor please.

Q. (By Mr. Malloy) I thought you said --

The Court: He started loading the whisky and Harp wasn't there, but I don't recall he said he started loading whisky because Harp wasn't there.

Q. (By Mr. Malloy) Well, you started loading the whisky, did you not, -- Harp was on his way, somebody of the raiding squad was. A. No, sir.

Q. All right, at any rate, you put all of the whisky in Martin Edwards car that you had obtained, and put it in your car? A. Yes, sir.

Q. And what time was this incident? A. That was about
1408] 10 -- it was somewhere between 10 and 11 o'clock; I couldn't remember just what time it was.

Q. Well, do you remember what time it was you stopped Edwards? A. Yes, sir, about 10 o'clock.

Q. 10 o'clock. A. About 10 or 15 after 10.

Q. Well, did you make out a report about this thing?
A. Yes, sir.

Q. All right now then, around 10 o'clock, or 10 or 10:15 and then in just a matter of four or five minutes officer Harp arrived, and somebody else, some other -- A. Yes, sir, Carroll Griffin -- Carroll Griffin -- a patrol car came by first.

Q. I understand. A. Then Carroll Griffin and Sergeant came.

Q. All right. A. Then Harp came.
Q. That was all a matter of minutes? A. Yes, sir.
Q. You finished loading the whisky from the Martin car into your car, is that right? A. Yes, sir.
Q. How long was it from the time you loaded that car until you finally made your appearance in the police station?
A. I never knew how many minutes it was; I never even
1409] looked at my watch, -- to try to time myself.
Q. Would you say it was forty-five minutes? A. I wouldn't say. I followed Harp, and them in, unloaded the whisky out of my car, into the vault, into the patrol; I went around into the raiding squad and then --
Q. You just answer the question, please, sir. You left by yourself from that place out there, didn't you? A. No, sir.
Q. Who went with you? A. I believe Mr. Edwards and I don't know whether the other two gentlemen that was in the car, and Jim Harp was behind him; I was behind Jim Harp; the Sergeant was behind me.
Q. Who did Edwards go down to the police station with, do you remember? A. Which?
Q. Who did Edwards go down to the station with? A. He was with two more gentlemen in the car, I don't know who they were.
Q. Did you take him down and book him on it? A. Yes, sir, I followed him down.
Q. Did you take him down in your car? A. No, sir.
Q. They went down in somebody else's car? A. They told me to let him go down in his own car -- drive his own car.
Q. He drove it down to the station? A. Yes, sir.
1410] Q. It was forty-five minutes later before you got there, is that right? A. I don't know how long it would take me to unload the whisky from the car down at the patrol station and then go on around --
Q. Martin Edwards was at that time booked on liquor possession on that charge? A. Yes, sir.
Q. Just a minute. Is this your first experience with the dog pound by the way? A. No, sir.
Q. You had been on there before? A. Yes, sir.
Q. You are a trained and experienced dog pound operator, is that right? A. Well, I wouldn't say that.

Mr. Malloy: That's all.

Mr. Crawford: That's all.

* * * * *

1411] W.T. PARRET, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Russell H. Smith

Q. Will you state your name, please? A. W.T. Parret.
Q. What is your occupation? A. I am the Municipal Court Clerk, Tulsa.
Q. Is it a part of your duty as Municipal Court Clerk for the City of Tulsa to keep records of cases filed regarding liquor in that Court? A. That's right.
Q. In response to subpoena duces tecum have you brought with you today records which will truly reflect the number of liquor cases filed in the Tulsa Municipal Court? A. I have.
Q. Are these those records? A. That is the records.
Q. Mr. Parret, in the subpoena duces tecum we asked you
1412] to compile the number of cases filed in the Tulsa County Municipal Court from May 8, 1955 through December 13, of 1955. Did you make that determination from your records? A. I did.
Q. And will you tell the jury the number of cases filed during that period?

The Court: What is that period again?

Mr. Russell H. Smith: May 8, 1955 through December 13 of the same year.

Mr. Malloy: May I ask, if Your Honor please, a few qualifying questions with respect to the answer that is being elicited?

Cross-examination by Mr. Malloy

Q. Mr. Parret, as Clerk of the Municipal Court, you don't have any authority over the filing of the cases, do you, sir --

you don't file them in other words? A. No, -- no.
Q. And there is a city prosecutor, is there not, in the Municipal Court of the City of Tulsa? A. Yes, sir.
Q. And before a case is given a Municipal Court number, the information -- strike that, please.
Before a case is actually filed in the Municipal Court of the City of Tulsa, an information is filed, is that not right? A. That's right.
Q. And that information is not filed until there is a
1413] signature of the prosecuting attorney for the City of Tulsa? A. It is filed -- do you mean in the criminal files or how do you mean?
Q. I mean in the court -- I don't mean docket downstairs; I mean in the Court. A. That's right.
Q. You are speaking of the Municipal Court records are you not? A. That's right.
Q. And then in other words, no record so far as these records reflect, unless that information is signed by the prosecutor? A. That's right.

Mr. Malloy: I will object to the introduction then of these records.

The Court: Overruled.

Mr. Malloy: Because it -- may I make --

(Thereupon Mr. Malloy and Mr. Russell H. Smith conferred with the Court at the Bench.)

The Court: The objection is overruled; you may answer
1414] the question.

Q. (By Mr. Russell H. Smith) Mr. Parret, I asked you, if you determined the number of liquor cases which were filed in the Tulsa Municipal Court between the dates of May 8, 1955, through December 13, 1955? A. I did.
Q. Will you tell the jury the number of cases so filed? A. Three hundred twenty-nine.
Q. I asked you further, didn't I, to determine the number of cases which were filed -- liquor cases in the Municipal Court of Tulsa between the dates of May 8, 1956, through

December 13, 1956? A. That's right.

Q. Did you make that determination? A. I did.

Q. And what were the number of cases so filed? A. One hundred four.

Q. I asked you further did I not to determine the number of cases filed from December 14, 1956 through March 31 of this year, 1957; did you make that determination? A. I did.

Mr. Malloy: Wait just a minute, if Your Honor please. Now this period as I understand it is from December --

Mr. Russell H. Smith: 14th, the -- or following that.

Mr. Malloy: '56.

1415] The Court: To March 31st, '57.

Mr. Malloy: I move that all the evidence -- we object to the answer for the reason that part of the figures here would be outside of the period of the alleged conspiracy.

The Court: Well, that is one reason why it might conceivably have some value. I overrule your objection.

Mr. Malloy: Exception.

Q. (By Mr. Russell H. Smith) Did you make that determination, Mr. Parret? A. I did.

Q. And what was the number of cases filed between December 14, 1956 through March 31, of 1957? A. One hundred fifty-seven.

Q. Cases filed, is that correct? A. Yes, sir.

Q. Mr. Parret, I show you a graph made concerning the figures which you have just reported to the court and jury; is that a true reflection of the cases filed in the sixty days that I have asked you about? A. That's correct for the figures that I gave you of the dates.

Mr. Russell H. Smith: If the Court please, I offer in evidence Government's Exhibit 12, 12-A, -B, -C and -D, together with Government's Exhibit 13.

Mr. Malloy: We object to the introduction of the

1416] exhibits for the reason the same is wholly incompetent, irrelevant and immaterial.

The Court: Overruled; it may be admitted.

Q. (By Mr. Russell H. Smith) Mr. Parret, I asked you further to prepare a weekly average of cases filed for the given dates which we have just discussed; did you make that determination? A. Yes, I did.

Q. And what did you find was the weekly average of cases filed between May 8, 1955, through December 13 of 1955?

Mr. Malloy: Wait just a minute, Mr. Parret.

We object to this as repetitious and merely another way of arriving at the same lump figure, and prejudicial for that reason -- cumulative.

The Court: Overruled.

A. The average cases for the period from May 8, 1955, to December 13, '55, average cases per week, 10.44.

Q. (By Mr. Russell H. Smith) Did you make an average determination of cases filed between May 8, 1956 and December of 1956? A. I did.

Q. Will you tell the court and jury -- A. 3.31.

Q. Did you make a weekly determination of cases filed in Tulsa Municipal Court relating to liquor from December 14, 1956, through March 31, 1956? A. I did.

1417] Q. Will you tell the court and jury that determination.

A. That was 10.17.

Q. Mr. Parret, I show you what has been marked as Government's Exhibit 14, and ask you, is that a true reflection of the figures which you have just given the court and jury?

A. Could I refer to this just a minute?

Q. Certainly. A. That's right.

Mr. Russell H. Smith: Thank you. I offer in evidence Government's Exhibit 14.

Mr. Page: I object to it as demonstrative, spectacular, all that sort of thing -- prejudicial, certainly to the defendants; it has already been testified to.

Mr. Malloy: I object to it as being incompetent, irrelevant and immaterial and also cumulative and prejudicial for that reason.

The Court: Objection is overruled; it may be admitted.

Mr. Hickman: May I inquire --

Cross-examination by Mr. Hickman

Q. I would like to ask you if you have a daily record aside from a record from month to month, do you have a daily record? A. No, we just -- I just got what I was asked for.

Q. Well, do you know why the date of December 13 was
1418] chosen as a stop date? A. I could speculate on it and come pretty close but I don't know for certain.

Q. Was it because the following day December 14th happened to be a case -- a day when a lot of cases were filed? A. Well, not in our court, particularly.

Q. What? A. Not in our court, particularly.

Q. Why was December 13 picked as the stopping date in 1956? A. I think it was because they had the ATU raids on the 14th.

Q. How many cases -- were there many, many cases filed in the Municipal Court after December 13? A. There was up to -- I have it up to March 31st, '57, one hundred fifty-seven cases.

Q. Well, how about the number of cases filed in the eighteen days of December up to the first day of January, the period that was left out from December 13 to December 31; did you have anything to show how many cases were filed in there? A. That wasn't left out.

Q. What? A. That is not left out; the records that we have there --

Q. I know it is -- it is -- it is for May 8 to December
1419] 13, why is December 13 taken as the date, do you know?

A. No, I don't know for certain; I just told you what I thought; I don't know whether that is competent testimony or not.

Q. What is your thought on it, maybe we can check it. A. They had the Alcohol Tax Unit raids on the 14th of December and from then on, that was the point of determination in these records that was asked for in that duces tecum subpoena.

Q. Were there may cases filed following December 13 in the Municipal Court? A. Oh, I don't know; we could turn in there -- that is the daily record there; we can turn and see.
Q. Are these '56? A. And '57.
Q. Just a moment then.

The Court: The records are all in evidence and you may have a compilation made later if you desire.

Mr. Hickman: I understand these are all admitted in evidence?

The Court: Yes, they are all admitted in evidence.

Mr. Hickman: No use taking the time then --

The Court: No, you can have someone examine those records and make a compilation and testify to the results if necessary.

1420] Mr. Hickman: All right, very well, that's all.

Cross-examination by Mr. Ungerman

Q. Mr. Parret, what was the weekly average of the raids between December 14, '55 and May 7, 1956? A. I didn't make that; I don't believe I have that compilation.
Q. You have a report here do you not -- you have a report from May 8, 1955, through December 13, '55; and then you move over clear into May of '56; what is your report on that other six-month period? A. I don't have any; they didn't ask for that.
Q. Can you make us a compilation on that? A. Yes, if I could take those records -- if I could get to them.

Mr. Ungerman: We would like to have you do that.

Q. (By Mr. Ungerman) Now I want to ask you this while you are on the stand: During the period May 8, 1955 through December 13, 1955, who was the Municipal prosecutor? A. I believe Bill Huckins.
Q. That is William P. Huckin, Jr. A. I think so.
Q. All right. And who was the municipal judge?

A. Judge Harry Seaton.

Q. Who was the municipal prosecutor from December 14, '55 to May 8, 1956? A. Mr. Huckins, I suppose.

Q. Was Judge Seaton also the Judge? A. That's right.

1421] Q. All right, and who became Judge on or about the 8th day of May, 1956? A. Judge James Goeppinger.

Q. Who became municipal prosecutor? A. Bob Watt.

Q. Are they still the officers in charge of that Court as of today? A. That's right.

Mr. Ungerman: That's all.

Mr. Russell H. Smith: That's all, Mr. Parret.

JOE McGUIRE, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Russell H. Smith

Q. Your name is Joe McGuire, is that correct? A. Yes, sir.

Q. Mr. McGuire, you have previously testified, is that correct? A. Yes, sir.

Q. Mr. McGuire, were you Chief of Police on March 15 of

1422] 1955? A. Yes, sir.

Q. And through what period were you Chief of Police? A. From 1953 to 1956, in May -- from May '53 to May '56.

Q. Mr. McGuire, I asked you to bring certain records regarding liquor seizures by the raiding squad, which liquor was turned over to the sheriff of Tulsa County; have you brought those with you? A. I have, sir.

Q. Concerning the period March 15, '55, to June 30, '55, do you have that record there? A. March 15, 1955 to June 30, 1955, yes, sir.

Q. And what does your record show? A. The record shows we turned to the Sheriff of Tulsa County 2,415 fifths of whisky, tax paid liquor, 701 pints, tax paid liquor, 2,717 one-half pints of tax paid liquor.

Q. Now, Mr. McGuire, you previously told me that was a three and one-half months period, is that correct? A. That's

right.

Q. Mr. McGuire, I ask you to determine the monthly average of the liquor for the three and a half month period that was turned over to the Sheriff; I have made this chart here which reflects that; have you checked that chart for accuracy? A. Yes, sir.

Q. Is it a fair statement to say then during the period 1423] which you have just testified, there were 690 fifths, 200 pints, and 779 half pints? A. That's correct.

The Court: That is a monthly average.

Mr. Russell H. Smith: Monthly average, yes, sir.

Q. (By Mr. Russell H. Smith) Mr. McGuire, during the period of July 1st, '55, to and including September 30, '55, do you have the records regarding the seizures turned over to the Sheriff during that period? A. Yes, sir, I do.

Q. What do your records reflect regarding the amount of whisky turned over to the Sheriff of Tulsa County? A. The records shows we turned 2,208 fifths, 720 pints, 3,457 half pints, tax paid liquor.

Q. Mr. McGuire, that is a three-month period; have you checked this for accuracy regarding the monthly average? A. Yes, sir.

Q. Being 736 fifths, 240 pints, 1152 half pints, is that correct? A. That's correct.

Q. Mr. McGuire, during the period October 1st, '55 to December 31, '55, do you have the records regarding the liquor turned to the Sheriff? A. Your dates again?

Q. October 1st to December 14, '55. A. Yes, sir, we 1424] have.

Q. What do your records reflect? A. Three thousand two hundred sixteen fifths, 720 pints, 2,064 half pints tax paid liquors.

Q. Mr. McGuire, that is a three-month period; have you checked this other record for accuracy on the monthly average for that three months? A. Yes, sir.

Q. Would that reflect 1,072 fifths, 240 pints and 688 half pints, is that correct? A. That's correct.

Q. Do you have the record for the period January 1, '56 to and including March 31, '56? A. I do have.

Q. And will you tell the Court and jury what that record reflects, please. A. Two thousand seven hundred seven fifths, 672 pints, 2,784 half pints tax paid liquor.

Q. This three-month period, have you checked the accuracy of this three-month period with the monthly average for the whisky seized during the period to which you have just testified? A. Yes, sir.

Q. Would that be 902 33 fifths, 244 pints, 928 half pints, 1425] is that correct? A. That's correct.

Q. Were you Chief of Police during the period April 1st, '56 to June 30, '56? A. April 1st to the 1st of May I was.

Q. To the 1st of May.

Mr. Russell H. Smith: If the Court please, the records which Mr. McGuire has covered a part of the period of which he was Chief, the other part was covered by the time when Paul Livingston was Chief; Mr. McGuire can testify as to the signature of the defendant Paul Livingston. However, I imagine the counsel would stipulate that that is correct record for the period, reflected, signed by Paul Livingston. We feel like that --

The Court: You may proceed, question the witness.

Q. (By Mr. Russell H. Smith) Do you have the records then for that period of April 1st, '56 to and including June 30, '56? A. Yes, sir.

Q. And what does that record reflect? A. Two thousand five hundred ninety-two half pints, 432 pints, and 1608 fifths, that is, quarts and fifths.

Q. Lieutenant McGuire, that is a three-month period, is that correct? A. Yes, sir.

Q. And that three-months period, divided into the liquor 1426] which you have just testified to, is it correct to state that there was an average monthly turn-over to the Sheriff of 536 fifths, 144 pints, and 864 half pints, is that correct? A. That's right.

Q. Do you have the records concerning the period of July 1, '56 to and including July 7, 1957? A. That's correct.

Q. Tell the Court what that record reflects.

The Court: What is that date?

Mr. Russell H. Smith: July 1st, '56 to and including

January 7, 1957.

A. Three thousand nine hundred thirty-six half pints, 2,568 fifths, 696 pints, tax paid liquors.

Q. (By Mr. Russell H. Smith) Lieutenant McGuire, that is a 6.23 months period, is that correct? A. Yes.

Q. Dividing that number into the total months, into the total liquors seized, is it correct to state that there were during that period, a monthly average turned to the Sheriff, which was 410.6 fifths, 111.72 pints, 631.78 half pints? A. That's correct.

Q. Is that correct?

Mr. Russell H. Smith: Mark those Government's Exhibit --

1427] Q. (By Mr. Russell H. Smith) Lieutenant McGuire, this last group of figures you gave me, will you call me the fifths first, then the pints, then the half pints -- I have your record; I'm sorry, I will give it to you; give us in the order of fifths, pints and then half pints on that sheet, please. A. On the fifths, 2,568 fifths; on the pints, it was 696 pints; 3,936 half pints.

Mr. Smith: Thank you. I offer these records in evidence Your Honor.

The Court: They may be admitted.

Q. (By Mr. Russell H. Smith) Mr. McGuire, you have previously seen this chart have you not? A. I have.

Q. Does that correctly reflect those figures which you have just given me as to the monthly average of liquor turned over from the Chief of Police to the Sheriff of Tulsa County? A. That's correct.

Q. Will you mark this an exhibit, please.

Mr. Russell H. Smith: I now offer into evidence Government's Exhibit No. 16.

The Court: It will be admitted.

Mr. Russell H. Smith: I have no further questions then.

The Court: Any cross-examination? I believe that's all.

1428] GLENN BROWN, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Russell H. Smith

Q. Your name is Glenn Brown, is it not? A. That's right.

Q. You are Sheriff of Tulsa County? A. That's right.

Q. Mr. Brown, is it not the custom periodically to turn over to you liquor which has been seized by the raiding squad of the Tulsa Police Department? A. That's right.

Q. For purposes of sale? A. That's right.

Q. What is the first receipt of whisky you have received after June 30, 1955? A. On the 19th day of July, 1955, we received 2,415 four-fifths quarts tax paid liquor, 701 pints tax paid liquor and 2717 one-half pints of tax paid liquor.

Q. And what is the next receipt that you received after that date? A. On November 4, 1955, we received 2,208 four-fifths pints, 720 pints and 3,456 half pints.

Q. And what does the next receipt reflect? A. On Feb-
1429] ruary 3, 1956, we received 3,216 four-fifths quarts, 720 pints and 2,064 half pints.

Q. And the next receipt of whisky that was received by your office? A. On April 16, 1956, we received 2,707 four-fifths quarts, 672 pints, and 2,784 half pints.

Q. And the next receipt of whisky by your office? A. July 25, 1956, we received half pint bottles, 2,592 four-fifths -- excuse me, pints, 432, and four-fifths quarts, 1608.

Q. And the next receipt by your office, please. A. On January 22nd, 1957, we received four-fifths quarts bottles 2568; pints, 696; and half pints, 3936.

Q. Is that the last receipt of liquor received by your office, Mr. Brown? A. Yes, sir.

Mr. Russell H. Smith: I now offer in evidence Government's Exhibits 17 through F.

The Court: They may be admitted.

Mr. Russell H. Smith: No further questions.

The Court: Any cross-examination?

Mr. Hickman: No.

The Court: All right, that's all.

1430] Q. (By Mr. Crawford) Mr. Brown, when you testified previously you mentioned a number of alleged gambling places that you raided? A. Yes, sir.

Q. Was one of those places operated by Dale Hines? A. Yes, sir, it was.

Q. Was one operated by Roy Farley? A. Yes, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Ungerman

Q. Well, while you are here, to save recalling you, will you give us a list of those places that were raided that night? A. I thought you might ask for that and I brought them.

Q. You guessed right. A. There were two warrants issued for actually the same place, 1300 block West 18th Street, and the 1300 block West 17th Street; the warrant issued for the building located on the northeast corner of Trenton and East Archer; a warrant issued naming Dale Hines, 206 South Detroit, Tulsa; a warrant for Sportsman's Recreation Center at 116 East 3rd Street.

Q. That is five locations? A. Yes, sir.

Q. Technically there are only four. A. Well, there are 1431] actually two separate buildings involved in one.

Q. The first -- A. That's right; they are back to back.

Mr. Page: I move that this testimony be stricken as having no probative value.

The Court: Overruled.

CLIFFORD B. ROGERS, called as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Will you state your name, please. A. Clifford

B. Rogers.

Q. Mr. Rogers, you are a police officer of the City of Tulsa Police Department, is that correct? A. Yes, sir.

Q. How long have you been so employed? A. About two and a half years.

Q. To what division are you presently assigned, Mr. Rogers? A. Detective Bureau.

Q. Were you ever assigned to the patrol division? A. Yes, sir, I was.

Q. Do you recall the approximate dates that you served 1432] in the patrol division? A. From August of '55 to January of '57.

Q. Now, were you assigned to any particular area of town when you were in the patrol division? A. Yes, sir, I was.

Q. What was the name of that district or the number of that district originally? A. At what particular time?

Q. Well, about January of '56? A. In January '56 I was assigned to the southeast section, called division 112.

Q. Do you know Bill Edwards? A. Yes, sir.

Q. Do you know where he lives? A. Yes, sir.

Q. And is his home within division 112? A. Yes, sir, it is.

Q. All right, did you ever arrest Mr. Edwards? A. Yes, sir.

Q. And you recall the date of that arrest? A. I believe it was January 5, 1956.

Q. And did you seize anything at that time -- any contraband? A. Yes, sir.

Q. And what was that? A. Liquor.

1433] Q. Did you take Mr. Edwards to the Police Station?

A. Yes, sir.

Q. Did you file charges against him? A. Yes, sir, I did.

Q. Did you have occasion to stop Mr. Edwards on other occasions while you were assigned to district 112? A. Yes, sir.

Q. Now, when were you transferred from that district, Mr. Rogers? A. I believe sir, it was effective either May 10 or 11 of 1956.

Q. And what division were you assigned to? A. I was assigned, still in the patrol division, to district 113, which is immediately west of the district I had been working.

Q. Would that be termed as the Brookside District?

A. Yes, sir.

Q. And Mr. Edwards -- Mr. Bill Edwards' home is not in that district, is that right? A. That's correct, sir.

Mr. Crawford: That's all.

Cross-examination by Mr. Malloy

Q. Mr. Rogers, you have been --

Mr. Malloy: Move the entire testimony be stricken as it
1434] has no probative value whatsoever.

The Court: Overruled.

Mr. Malloy: Let me ask you a few questions.

Q. (By Mr. Malloy) Mr. Rogers, you have been a member of the Police Department two and one-half years, is that right, sir? A. Yes, sir.

Q. When you were first on the department what division were you assigned to? A. I worked with the Dispatcher and complaint desk.

Q. How long were you in that capacity, please? A. About nine months.

Q. Then after that where did you go to work? A. Patrol Division, patrol car.

Q. And with that you went to work in August of 1955? A. Yes, sir.

Q. And you continued up until January of '57 -- or '56 in that division? A. The first day of January '57 I was assigned to the Detective Bureau.

Q. You remained in the Patrol Division as I understand it up until January 1957, and are now in the Detective Division, is that right? A. That's right, sir.

Q. How many sections are there, Mr. Rogers, please?
1435] A. How many --

Q. You mentioned this section 112, and section 113 -- A. How many sections all together?

Q. Yes. A. At that time there were ten, eleven and twelve, I believe there was.

Q. How many have you served in? A. All but the ones in the colored part of town.

Mr. Malloy: That's all.

Mr. Crawford: That's all.

The Court: That's all.

JOHN BILL EDWARDS, recalled as a witness on behalf of the Government, testified:

Direct Examination by Mr. Crawford

Q. Mr. Edwards, do you know a police officer by the name of Clifford Billie Rogers? A. Yes, sir.

Q. And do you recall an occasion where he arrested you? A. Yes, sir.

Q. Do you remember the date? A. It was the first of January -- I mean, in the first -- about the first part of January.

Q. Of 1956? A. Yes, sir.

1436] Q. And did he take you to the police station and confiscate your whisky? A. Yes, sir.

Q. Now, did he sometimes stop you on other occasions, Mr. Edwards, when you didn't have whisky? A. Several times.

Q. Did you ever have a conversation where there was present Paul Livingston and Jay Jones about Clifford Billie Rogers? A. Yes, sir.

Q. Do you recall when that conversation took place? A. That was in the March 30 meeting.

Q. The one you testified to previously? A. Yes, sir.

Q. And at that meeting, Mr. Livingston and Mr. Jones, among others, were present, is that correct? A. Yes, sir.

Q. Now, then, several months prior to that date in January '56 and several months after that date in January '56, Mr. Edwards, were you ever arrested by a city police officer? A. Repeat that question again.

Q. Within -- well, let me put it in two parts. Prior to January in 1956 had you within a period of several months been arrested by the city police officer -- A. No, sir.

Q. All right. And then subsequent to January 1956,

1437] for a period of several months had you been arrested

by a police officer? A. That's the last time I have been arrested I think.

Q. All right now, Mr. Edwards, would you relate to the jurors the conversations you had with either Paul Livingston or Jay Jones at that March 30 meeting relating to Clifford Billie Rogers. A. Well, in this discussion that night, in setting up this fix, thing that we had, I told Paul and Jay that Billie had been at my house for -- oh, four or five mornings every week, trying to follow me, to where my whisky was, and I said something has to be done about it, and they promised me that they would transfer him.

Q. Both Paul and Jay did? A. Yes.

Mr. Crawford: You may examine.

Cross-examination by Mr. Hickman

Q. Are you sure this was March 30? A. Yes, the first -- the first meeting that we had to set up this thing -- no, no, I'm sorry, that wasn't the first meeting, -- it sure wasn't.

Q. Well, did you ever meet with these men on March 30 1438] in your life? A. Oh, yes.

Q. How do you fix the date, March 30? A. Well, it was just a few days before the election.

Q. Do you know what day of the week March 30 fell on? A. I believe it was on a Friday.

Q. You are right. Do you know what took place on March 30, Friday, -- some big event here? A. No, sir, I don't believe I remember.

Q. But you are positive it was March 30, 1956? A. Yes, sir.

Q. That you met, with whom? A. I met with Jay Jones and Charley Hirrlinger.

Q. No one else? A. That's right.

Q. Well, it wasn't on March 30, 1956 that you spoke about this fellow Rogers? A. No, sir, I have admitted that I made a mistake there.

Q. All right, when was it? A. It was in -- some of the meetings in June, -- no, -- it was our first big meeting, where Jay Jones, Paul Livingston, Jack Gott, Charley Hirrlinger, Johnnie McAfee and myself were present, and that was in the latter part of May.

Q. Latter part of May? A. Yes, sir.
1439] Q. Are you sure of that? A. Yes, sir.
Q. Then you held no meeting in April at all? A. No, sir.
Q. So you had the meeting on March 30th, with no one there but Jay Jones and Hirrlinger and you? A. Yes, sir.
Q. And then in May with these other men and Hirrlinger and Johnnie McAfee? A. Yes, sir.
Q. And it was at that meeting that it was discussed? A. Yes, sir.
Q. Well, do you know what part of May it was? A. I have testified that it was the latter part of May.
Q. The latter part of May? A. Yes, sir.
Q. Can you tell us what hour of the day or night the meeting of March 30th was? A. Yes, sir.
Q. About what time was it? A. We were supposed to meet at 9 o'clock but Jay was late.
Q. How late? A. Hour, hour and a half.
Q. Then he was there about 10 or 10:30? A. Yes, sir.
1440] Q. Are you sure of that? A. Yes, sir.
Q. All right, positive. You admit you can make mistakes, don't you, Mr. Edwards? A. Yes, sir, it is human to err.
Q. That's right; we all have rubbers on our lead pencils. A. That's right.
Q. Because we make mistakes. You are not mistaken about the hour or the day, March 30, 1956, at 10 or 10:30 at night? A. I don't think I am mistaken.
Q. All right, but in any event it was in the latter part of May thatyou complained about this officer Rogers being at your house in the morning and you wanted him transferred? A. Yes, sir.
Q. Well, you would be surprised to learn then that he had been transferred on May 10th, wouldn't you, before you ever complained? A. Well, I am -- I know that he was transferred the day that Jay took office. You have gotten me confused on these meetings.
Q. I don't want to confuse you; I just want the facts, Mr. Edwards. A. I don't think you want the truth.
Q. Don't take issue with me; I am asking you to answer
1441] the questions. A. Well --

The Court: Wait a minute.

A. I am willing to take a lie detector test.

The Court: Now wait just a minute; you should not argue with counsel. Answer the questions the best you can; if you are confused about a date the thing to do is to get straightened out.

A. All right, sir.

Q. (By Mr. Hickman) Didn't you previously tell me, Mr. Edwards, that it was at your big meeting when so and so was there, Gott, Livingston, Jones, McAfee, you and Hirrlinger that you complained to Jay and Paul about this man Rogers? A. Yes, sir.

Q. And that you asked them to transfer him from your district to another district? A. Yes, sir.

Q. And they promised to do so. A. They did do so.

Q. After the -- after the meeting. A. He was transferred the day after Jay took office.

Q. But you didn't complain or have this talk with them until about two weeks -- A. I admitted, Mr. Hickman, that I was mistaken there.

Q. Now, is it your testimony, Mr. Edwards, that you didn't
1442] have the meeting in the latter part of May -- is that your testimony now? A. No, we met the latter part of May.

Q. Well, when was it that you discussed with them the matter of the transfer of officer Rogers? A. I can't remember.

Q. Well, can you tell us why you can't remember that date and yet you can remember the date that you met on March 30th at 10 or 10:30 at night; is there something different about that?

Mr. Crawford: That is argumentative; we object.

The Court: Overruled.

Q. (By Mr. Hickman) Was there some reason why you can remember one and you can't remember the other? A. No, sir.

Mr. Hickman: That's all.

Redirect Examination by Mr. Crawford

Q. Mr. Edwards, there is no question in your mind is

there that you did request that Rogers be transferred?

Mr. Hickman: Just a minute, we object to that on the ground --

A. Yes, sir.

Mr. Hickman: Just a minute we object to that on the ground that that is invading the province of the jury to ask the witness if there is any question in his mind about it.

1443]

The Court: I think he has already answered that question -- covered it.

Mr. Hickman: Was his answer "yes"?

(Thereupon the Reporter read the answer of the witness)

Mr. Crawford: I said, there was no question -- well, I will clarify that.

Q. (By Mr. Crawford) You did talk to Paul Livingston and Jay Jones about the transfer of Billie Rogers, is that right? A. Yes, sir.

Q. As a matter of fact, Mr. Edwards, didn't Rogers stop you on May 7th? A. Yes, sir.

Q. And at that time you had no whisky with you, is that correct? A. No, sir.

Q. How did you happen to remember that it was May 7th? A. It was the day before Jay took office, and I could hardly keep myself from telling Billie that he wouldn't be around much longer.

Mr. Hickman: Now, if the Court please, we move that that voluntary statement be stricken and the jury admonished not to consider it on the ground that it is an improper type of proof.

1444] The Court: No, I can't --

Mr. Hickman: You mean, his thoughts --

The Court: I think it is proper as indicating the reason

why he was able to fix the date with certainty; I think it is entirely proper for that purpose.

Mr. Hickman: Very well, I submit to Your Honor's ruling but I still think that that is an improper observation and it wasn't responsive to the question.

The Court: I think it explains the reason why the witness says that he recalled that he was stopped on the date before the election.

Mr. Hickman: He didn't say that; he said he was stopped on the day before Jay Jones took office.

The Court: Well, the day before he took office then I can make a mistake too, I guess.

Mr. Hickman: That's all.

Mr. Crawford: That's all. At this time I would like to state to the Court that the witnesses I have available today I am convinced are not going to add a great deal to the evidence already presented, and I would like to rest at this time in behalf of the United States in order to permit the Court to receive any motions that may be filed in behalf of the defendants, subject to the possibility, Your Honor please, of putting on one or two more witnesses tomorrow morning if I can locate them.

1445] Mr. Hickman: Well, we don't approve of that procedure because our motion should be made when the Government definitely rests its case. I would rather recess now and let him produce his evidence tomorrow.

Mr. Crawford: That would be very satisfactory with us, Your Honor.

Mr. Hickman: We have worked pretty hard and we have made some progress here and I would prefer -- I think I speak on behalf of my colleagues -- that we would accede to his request and adjourn until morning, that is what you want, isn't it?

Mr. Crawford: May I state the reason for that?

The Court: Yes, sir.

Mr. Crawford: I anticipate there may be some problems with regard to the law insofar as some of these defendants are concerned. I have approximately fifteen witnesses waiting to be called if the law is as I hope it is not. Those witnesses would probably only be damaging to the defendants without being material to this lawsuit, and it is in an effort to be fair with defendants who may have good motions in their behalf that I am making this --

Mr. Smith: May we approach the Bench, Your Honor?

The Court: I am inclined to let the Government rest with the understanding that they may be -- may have to reopen tomorrow morning in case you desire to do so then I can excuse the jury and thereafter I can hear legal arguments, save a great
1446] deal of time.

Mr. Hickman: Unless we know they are finished --

Mr. Smith: We need, at this time, --

The Court: I am under the impression that it would be within the discretion of the Court to permit the Government to rest and then upon motion to reopen for the purpose of offering additional evidence tomorrow morning; isn't that a matter that is within the discretion --

Mr. Smith: I think it is a matter that is within the discretion of the Court.

The Court: Well, I had in mind exercising that discretion.

Mr. Smith: But I think the Court in the exercise of discretion would in the absence of the jury have to inquire into the nature of the testimony that the District Attorney --

The Court: Well, I anticipate there won't be any offered, but in the event there should be --

Mr. Smith: On that basis, at this time, comes now Cliff Wells, --

The Court: Wait a moment.

The jury will be excused at this time until tomorrow morning at 9:30, and the Court is not in recess but the jury may be excused at this time and I will hear further from counsel.

I want you to come up to the desk, to tell you what I have in mind.

1447] (Thereupon, Mr. Malloy, Mr. Ungerman, Mr. Shortridge, Mr. Smith, Mr. Hickman, Mr. Page, Mr. Hall, Mr. Rucker, Mr. McNeill, and Mr. Gotcher conferred with the Court at the Bench.)

* * * * *

1448] The Court: Now, Gentlemen, I have no particular preference about the manner in which we handle this discussion. We can either have the record show that the Government rests, with the understanding that they may offer, or ask leave to reopen tomorrow morning, or we may have the understanding that the record shows that the Government has not yet rested, and you may indicate the motions which you desire to offer at the close of the case and we can have some discussion of them now.

Mr. Smith: My point on the matter is this: That certainly the Government should announce rest. Then in the morning if the Government seeks to reopen, it would occur to me that the Court should make careful inquiry as to whether or not the evidence which they propose to then offer, if any, would be pertinent.

The Court: That's exactly what I suggest you should do, that would be my preference as to the way to handle it. The record may show the Government rests; and it may further show that if the Government desires to ask for leave to open tomorrow morning, I will consider your motion; I will be interested in knowing, of course, what additional evidence you want to offer; and I will have to be convinced that it might have some value -- some evidentiary value in the case before I would grant the request to reopen.

Mr. Crawford: That's right.

Mr. Ungerman: Well, upon the Government announcing the
1449] fact that they have rested their evidence in support of the indictment, the defendants and each of them separately and jointly move of this Honorable Court at this time to strike all of the testimony of all the witnesses given relating to any prostitution activities, manner in which receipts were made pertaining thereto, or any alleged pay-offs relating thereto, for the reasons and upon the grounds that the same is wholly incompetent, irrelevant and immaterial, and not within the issues as contained in the indictment, or either count thereof, upon which these defendants have stood trial, and for the further reason that all of said evidence is highly prejudicial to the rights of each of said defendants in this action. And for the further reason that the said evidence so offered by the Government in its case in chief wholly fails to support any of the charges as contained in the indictment, or either count thereof.

The Court: Well, go ahead with all the motions that you care to offer.

Mr. Ungerman: Now comes the defendants and each of them, jointly and separately and move of this Honorable Court to strike all of the evidence from any of the witnesses given by the Government in its case in chief pertaining to or having anything to do with the alleged transportation of intoxicating liquor all tax paid from the State of Missouri into the State of Oklahoma between the period of the year 1948, which is the beginning date of the alleged conspiracy as set out in the indictment up to and including the 5th day of April, 1951,
1450] for the reasons and upon the grounds that the State of Oklahoma during said period of time, to wit, the year 1948, 1949, 1950, and up to and including the 5th day of April, 1951, did not have in force and effect within the State of Oklahoma, and as a part of the statutes of the State of Oklahoma, any act prohibiting the importation of intoxicating liquors into the State of Oklahoma with the permit system as provided for by the terms and conditions of the liquor enforcement Act of the United States of 1936, and that therefore the State of Oklahoma did not come within said Federal Act during said periods of time.

The defendants and each of them jointly and separately move further to strike all of the testimony of all of the witnesses of the Government in its case in chief relating to and pertaining to the importation of any intoxicating liquors all tax-paid -- federal tax-paid, from the State of Missouri into the State of Oklahoma during any of the period as set forth in the Indictment for the reasons and upon the grounds that the said evidence affirmatively shows that there was no conspiracy to violate the laws of the United States pertaining to the liquor enforcement Act of 1936, and for the further reason that said evidence affirmatively discloses that the object of any conspiracy to import intoxicating liquors into the State of Oklahoma from the State of Missouri, if any such conspiracy ever existed, ceased and was fully accomplished and effected when the said tax-paid liquor crossed the said line of
1451] Oklahoma and into the State of Oklahoma, and therefore no act subsequently done by any of the defendants, separately or jointly could possibly have been any act done to further the object of such a conspiracy.

The defendants jointly and separately further move of this honorable Court to strike all of the evidence of the Government in its case in chief relating to any evidence of gambling or alleged pay-offs relating to gambling, for the reasons and upon the grounds that the said evidence is incompetent, irrelevant and immaterial to the issues involved in the indictment upon which these defendants have been tried upon, and the said testimony so offered is highly prejudicial to the Constitutional rights of the defendants and each of them.

I might add this to that last motion: That the evidence wholly fails to support the charge of a conspiracy to violate the Internal Revenue Laws, insofar as said evidence is concerned. At this time, Your Honor, I think that is all the motions relating to the Government's evidence that we want to interpose.

Mr. Hickman: We are going to -- after the Court rules on these we are, of course, going to move for acquittals on behalf of each.

The Court: I will overrule all your motions then get to your next motions. Let me make this explanation to you:

Of course it wasn't unlawful to import whisky into Okla-
1452] homa -- that is, not against Federal law, to import whisky

into Oklahoma during the period sometime in May 1949 to May 1951, a period of four years, during which it wasn't a violation of Federal laws to import liquor into Oklahoma. And at the proper time the jury will be advised, and advised not to consider that evidence.

In so far as the prostitution phase of the case is concerned, the evidence is not adequate, in my opinion, to link prostitution with the alleged conspiracy; and, so at the proper time the jury will be so advised, and advised not to consider that evidence. At least that is presently my view about it. I probably should say that I am not stating to you tentative views but I am rather inclined to think that I will follow through on some of them.

Another thing, it is presently my view that there isn't adequate proof of a conspiracy ante-dating April or March 1956, I won't try to fix the exact date. But it is my view that there is not sufficient evidence to show -- to go to the jury on the question of whether there was an unlawful conspiracy as charged in the indictment entered into by these defendants, or any of them prior to the date upon which the evidence on behalf of the Government discloses that Jones, Livingston, Gott, Hirrlinger, McAfee and Edwards met for the purpose of entering into the agreement as testified to by Government witnesses. And it is at the moment my view that I will so advise the jury 1453] and of course in that connection they would not consider the evidence pertaining to the unlawful transportation of whisky into Oklahoma prior to the date upon which the Government's evidence suggests that the unlawful agreement was entered into. And that would start with not earlier than March 30 -- I suppose -- sometime in March 1956.

Now, in so far as the evidence presented by the Government with reference to that conspiracy is concerned, I think it is entirely adequate to make a prima facie case of an unlawful agreement between most of the defendants -- well, I will put it, an unlawful agreement between some of the defendants, and there is proof that others joined later, and adequate evidence that the unlawful agreement contemplated, among other things, the transportation of whisky into Oklahoma in violation of federal law as charged in Count 1.

I haven't had this evidence, as yet, reviewed to me about the payment of special taxes. Some of these defendants have paid special taxes Perhaps some have not, but again we would be concerned only with the period commencing April -- well,

I will just use, for the purposes of this discussion April 1 as the starting date -- we would be concerned with the matter of taxes -- special tax paid after April 1, 1956. And we would not be concerned with prior dates.

I don't -- I don't see any evidence here to hold Wells Wells in the case. And I don't believe there is competent evidence to show that Bulloch was in the conspiracy --
1454] talking about the conspiracy of March -- commencing April 1, 1956. There is hearsay evidence -- there is hearsay evidence that has been presented that Bulloch was to share in the pay-off to the extent of ten per cent; but he wasn't present at the time. That evidence is admissible, and is to be considered by the jury only if there is competent evidence, admissible evidence, aside from that hearsay testimony sufficient to make a prima facie case that he was a member of the conspiracy. And I don't there there is such evidence.

Now, we come back to the early period -- testimony with reference to payments made to him by Cleo Epps -- that goes back to what date?

Mr. Henneberry: 1948.

The Court: 1948. In the first place, I don't believe the evidence -- again I am talking about perhaps tentative views but this is my thought about it at the moment -- I don't believe the evidence is sufficient to establish any unlawful agreement at that time to engage in the whisky business. I am -- of course in '48 it wasn't unlawful to transport into Oklahoma -- '48 and '49 --

Mr. Ungerman: Judge, I wanted to correct you -- I wanted --

The Court: '47?

1455] Mr. Ungerman: '47 to '51.

The Court: Yes. Well, it wasn't unlawful to transport. So the alleged pay-off by Epps back at that time could not have involved an unlawful agreement to transport into Oklahoma because it wasn't against Federal law to transport into Oklahoma at that time. And in addition to that, the evidence rather indicates that these contributions were being made in connection

with gambling operations carried on by these parties over on the county line. Now, it is true that one of the parties testified that he was engaged in the whisky business, that he was importing some liquor, I believe from --

Mr. Hickman: Louisiana, he said.

The Court: Cairo, Illinois, I believe, is where he said; is that Harvey?

Mr. Crawford: Yes, he testified from both Illinois and Louisiana.

The Court: Well, we were all right.

But I don't believe the evidence is sufficient to establist a conspiracy to violate the liquor laws, either the importation -- obviously not importation; no law against importation -- Federal law -- nor do I believe it sufficient to make a prima facie case of conspiracy to violate Federal law pertaining to payment of special taxes. In addition to that, if there was any kind of an agreement back at that time it apparently had no relation to this conspiracy alleged to have been entered into on April 1st of 1956. And the statute of limitations
1456] would have run on it unless it was a continuing thing and unless there would be some overt act committed in furtherance of that particular conspiracy within the five-year period prior to the return of this indictment. And then, so far as the testimony with reference to pay-offs in 1952 are concerned, those involve -- as far as the testimony is concerned it tends to disclose payments made to Arthur Graves and some made by Boone and some by Red Carter -- that is, money collected by Carter and subsequently paid to Graves. And I don't believe that is linked up -- tied up with this conspiracy -- I don't believe the evidence tends to disclose any continuous unlawful agreement upon the part of the defendants, or any of them, to engage in any violation of the two Federal laws with which we are concerned during that period. So I am inclined to think that we come down to the 1956 --

Mr. Froeb: May it please the Court, we are to be given an opportunity to be heard on that motion, to make a legal argument?

The Court: I believe I am going to overrule all the motions that have been filed. There may be some others --

Mr. Froeb: Well, may I outline the cases that we have ready to argue at this time?

The Court: All right.

Mr. Froeb: First of all, from the period '47 to '49,
1457] we are convinced that there was a Federal import act that was effective. There was a State act that was effective because the repeal in '47 was ineffectual -- the only case that holds it was ineffectual is a State -- is a District Court case from Garvin County, and even that, in the opinion, implies that the Act could be -- that the repeal could have been held -- that it could be ineffectual. We have argument to present on that.

The Court: Didn't the Court of Appeals of our Circuit hold --

Mr. Froeb: It mentioned it in dictum, in passing; and we would like a chance to be heard on that because that would leave 1948 an importation. Next, we think that we have -- we would like to present an argument to the effect that conspirators -- the people actually drop in and out of a conspiracy; and in our situation it is a perfect illustration because the city administration keeps changing, namely, different actors have to drop in and out to make it effectual. The third argument is to the effect, in brief, that the whisky business in the Tulsa area has been in continuous and strong effect since 1947 and to 1956, that it is clear the different participation in the agreement, the pay-off phase of the agreement, that is -- the evidence shows that the pay-off has been in effect from '48 to '56. There is no question about that. And the pay-off feature is the main important part of the conspiracy because it is the means to carry on the whisky business successfully and
to make money out of it. This Briggs case we have here,
1458] that was in Muskogee, is a perfect example of what we are talking about. In this case the Court said that the evidence was sufficient, outside of the hearsay statements made out of Briggs' presence, the evidence was sufficient to show prima facie a conspiracy agreement; and the evidence in this

Briggs case was not as strong as what we have got here.

The Court: Well, with respect to that? With respect to what?

Mr. Froeb: How's that, Your Honor?

The Court: Not as strong with respect to what defendant here in this case?

Mr. Froeb: Nolen Bulloch.

The Court: Well, what evidence do you have here that Nolen Bulloch was in the conspiracy except for the hearsay statements made by Paul Livingston?

Mr. Froeb: Cleo Epps testified that Bulloch contacted her and made a plea for money in 1948; Bulloch said he was poorly paid, and because it would be a good investment and that the paper could either make 'em or break 'em. This is evidence taken in the light most favorable to the Government; and it is uncontested at this point. She collected from the Tulsa County-Creek County line operators; that was the people you referred to, and gave the money to Bulloch. She collected pay-off. Bulloch wrote critical articles when payments were not made;
1948 to '50 Cleo had meetings with Bulloch, or 1953, in
1459] which Bulloch demanded pay-off on Bill's Truck Stop,
$2000 a month. That evidence was untouched. Dale Hines testified he gave money to Cleo for Bulloch; Roy Farley testified he gave money to Cleo for Bulloch; Billie Popovich testified she gave money to Cleo for Bulloch and that she witnessed a 1953 meeting between Cleo and Bulloch; Harvey Pugh testified he gave money to Cleo for Bulloch, 1948 to '50; Carl Harp testified he witnessed a meeting between Cleo and Bulloch, and, quote, Cleo took the pocket book -- at that meeting she went out and took her pocket book to Bulloch. Lawton Bragg testified he saw Cleo, visited at her home in an operation with them, and that Cleo went out with a purse to talk to that person.

The Court: Well, there was no identification of the person.

Mr. Froeb: Bill Edwards --

The Court: Obviously that testimony would not be considered --

Mr. Froeb: Bill Edwards, Lou Anderson, and Billie Popovich corroborate the meeting at Bill's Truck Stop with regard to the statement of Bulloch that she would have to pay $2,000 a month to operate.

The Court: To operate what? That was, according to the evidence a suggested gambling proposition.

Mr. Froeb: Cecil Boone testified that he gave Bulloch
1460] $100 and then gave O.C. Lassiter another $100 for Bulloch.

The Court: What was that for -- what was that for?

Mr. Froeb: Cecil Boone is a whisky operator.

The Court: What was the money paid for?

Mr. Froeb: Protection.

The Court: What kind of protection?

Mr. Froeb: Excuse me, Your Honor; that was in the -- I am sorry. Archie Moore, Harold Haus and Buck O'Brien met with Bulloch relative to having a police vice squad man, Al DeMoss, removed.

The Court: Well, I think that -- that evidence is rather helpful to the defendant, as far as DeMoss transaction --

Mr. Froeb: It is evidence of association of Bulloch with liquor dealers; and the cases abound with statements to the effect that all of that evidence of association with the liquor business is highly pertinent.

The Court: He didn't ask for anything -- didn't ask for a copper cent; he simply discussed the matter of having DeMoss removed.

Mr. Froeb: Well, Your Honor --

The Court: And apparently it is a good thing he was.

Mr. Froeb: If nothing else it shows the thread and continuous of Bulloch attempting to keep this pay-off system in operation during those years prior to '56.

The Court: I think the argument just falls by its own
1461] weight. You say, "this pay-off system"; and yet you don't have any proof of a pay-off system.

Mr. Froeb: We have proof of people paying money to Bulloch for protection; some of them are whisky people.

The Court: Well, protection for what? For instance a man in the whisky business pays $100 to avoid publication of a financial statement that came to light in the trial of a divorce case. How, conceivably, can a payment of that sort be considered as a payment made in connection with an unlawful agreement to carry on the whisky business?

Mr. Froeb: Cecil Boone -- the implication there is fairly obvious that Cecil Boone didn't want his financial statement published because he didn't want people to know how much money he was making out of the whisky business. I think that is at least a fair inference. All of this Government's evidence is unchallenged at this time. On the basis of the Briggs case alone we think we have much more evidence than the Briggs case.

The Court: Let me see the Briggs case.

Mr. Froeb: And in the Briggs case it was held that a prima facie conspiracy was established.

Mr. Gotcher: If Your Honor please, you might know there that I tried that case, and I could give Your Honor the facts in the trial court, if you want me to, rather briefly.

The Court: Well, may be I had better just read the book.
1462] Thank you, Mr. Gotcher.

Well, I notice the Court says this in this case: "Apart from any statement made by any witnesses outside of the presence of either Briggs or Payne, evidence of his own statements," referring to Briggs --

Mr. Froeb: Yes, sir.

The Court: "When coupled with the undisputed fact that Payne operated a very large wholesale establishment on the west side, openly and notoriously, unmolested by any law-enforcement officers, is entirely sufficient to establish a prima facie conspiracy between the Sheriff and the liquor dealers. The jury was entitled to infer from these monumental facts that no one could so flagrantly violate the law without the knowledge, consent and protection of the law enforcement officers, of which the Sheriff was the head. The statements of the co-conspirators were only confirmatory of the arrangement manifest to the eyes of all who would see."

Mr. Froeb: Yes, sir, I appreciate the fact that there was a large wholesale store operating outside of the city limits or closely outside of the city limits; but if you examine the statements that Briggs is attributed to have made by three witnesses they boil down to much less than we have got in this proof. If it is the quantum of proof as to the test of what constitutes a prima facie showing of conspiracy agreement I think that we have got a higher degree --

1463] The Court: Any other motions?

Mr. Hickman: Yes, I want to, on behalf of the defendants Jay L. Jones, Jack Gott and William Thomas Peterson, jointly and severally move the Court for an acquittal upon the ground of the insufficiency of the evidence of the Government to establish the allegations of the indictment; and I desire to be heard on that, Your Honor, to give Your Honor my views.

The Court: All right, I will hear you now.

Mr. Rucker: May I make my motion?

The Court: Yes.

Mr. Rucker: Comes now the defendant Nolen Bulloch and moves the Court for a judgment of acquittal because there is no independent, competent evidence of his participation in this alleged conspiracy, either Count 1 or Count 2.

Mr. Page: Comes now the defendant, John McAfee, and moves the Court for acquittal on Count 1 and Count 2 of the indictment as the evidence of the Government fails, wholly and completely, to support the allegations therein contained.

Mr. Patton: Comes now the defendant Theopolis Scoggins and moves the Court for an acquittal on Count 1 and Count 2 on the ground that the evidence presented by the Government is wholly insufficient therein.

Mr. Ungerman: Come now the defendants Paul J Livingston, Leo Brantley Jackson, Johnny E. Cole, and James Richard Harp, jointly and severally, and move the Court for a judgment of acquittal as to said defendants, jointly and severally
1464] for the reason and upon the ground that the evidence offered by the Government in its case in chief is wholly insufficient to sustain the allegations as contained in either Count 1 or Count 2 of the indictment.

Mr. Gotcher: Comes now Elmer Oakley, Don Rucker, and Neil Williams and jointly and severally move the Court for a judgment of acquittal on Count 1 and Count 2 of the indictment for the reason that the evidence is not sufficient to sustain the allegations contained in the indictment.

And I would like to make a further motion, Your Honor, to strike the hearsay statement made yesterday, I believe, by Bob Massey, as to any money that was delivered by Neil Williams and call further attention to the fact that he was mentioned only twice in this lawsuit, and both by hearsay statements.

Mr. Crawford: I take exception on the record to -- Mr. Gotcher says, on the record there, Your Honor, as to Neil Williams -- when the time comes I would like to be heard on that.

The Court: Well, I need to be -- to have my memory refreshed on the testimony pertinent to Williams.

Mr. Gotcher: Yes, sir.

The Court: I am not sure that I recall what it was. I know that it wasn't much, but I am inclined to think it was enough to hold him in. I am not sure.

Mr. Gotcher: Well, he asked one man, Clevelahd, how to
1465] get in it; he didn't even know how to get in it. And the other two statements is Bob Massey and one other states --

The Court: Didn't know how to get in at that time, but I am afraid he found out how to get in.

Mr. Gotcher: Not according --

The Court: Well, I will be glad to have you refresh my memory about it. I am not certain about it.

Mr. Smith: Comes now the defendant Clifford Wells -- Clifford E. Wells, I think it is -- and moves the Court for an acquittal on both Count 1 and Count 2 of the indictment, for the reason and upon the ground that there is a total lack of evidence presented by the Government to show that this defendant was ever a party to or participated in, any conspiracy within the time covered by the indictment. If any there was.

Mr. Hall: Comes now the defendant Oliver H. Stephens, and moves the Court for a judgment of acquittal as to both counts of the indictment for the reason and upon the grounds that the evidence is wholly insufficient to sustain and support the allegations of either count of the indictment.

Mr. McNeill: Comes now the defendants Martin Edwards, Fred Griffing, Lee Johnson and John Hood, jointly and severally and move the Court for a judgment of acquittal as to both counts of the indictment, for the reason and on the ground that the evidence presented by the Government in its case in chief totally fails to support any of the allegations or charges against said defendants contained in said indictment.
1466]

Mr. Shortridge: Comes now the defendant Don Gray, and, the Government having rested, moves the Court for a judgment of acquittal of the offense charged in Count 1, the transportation Count of the indictment, for the reason and upon the ground that said evidence is insufficient to sustain a conviction for said offense; and the defendant Don Gray further moves the Court that after the evidence on the part of the Government is closed to sustain a motion for judgment of acquittal of the offense

charged in Count 2 for the reason that the indictment -- for the reason and upon the ground that the evidence is insufficient to sustain a conviction for said offense. That is, there is no evicence that he joined in a conspiracy to carry on any unlawful business. Written motion is herewith filed.

The Court: It just occurs to me that with respect to Gray we do have ample proof of conspiracy to violate the transportation count between Gray and some of these defendants, going back to -- possibly to 1951, '52. It maybe that this case should be submitted to the jury on the theory that they should determine from the evidence whether a conspiracy is shown between Gray and those who were engaged in the importation of whisky and the sale here in Tulsa, and that the conspiracy was joined by the police officer defendants and others, including alleged conspirators not defendants which occurred on or about April 1, 1956.

What is the theory on your motion, Mr. Hickman? You are 1467] not serious about it, are you?

Mr. Hickman: Indeed I am; I never was more serious in my life, Your Honor. And I am glad of an opportunity to assert my theory to the Court.

The Court: All right.

Mr. Hickman: This evidence paints a bad picture. There is no doubt of it -- of what I call municipal graft. But it does not bring itself within the four sides of this indictment.

In the first place, police officers are under no obligation to enforce the internal revenue laws of the United States. They are under no obligation or duty to enforce any of the laws of the United States. Their actions in enforcing liquor laws and making unlawful seizure or search or arrests are no concern of the United States. Under our set-up an officer of a state or city can break into a citizen's front door with an ax and make an illegal search, but if he finds contraband therein he can file a case in this Court and Your Honor is not concerned with the fact that he violated the citizen's constitutional rights when he went in there. For the same reason the officers of the City of Tulsa, and the officers of the County of Tulsa, and of the State of Oklahoma are under no obligation

to enforce the liquor laws of the United States, whether they pertain to importation or to internal revenue. That was decided by the Court of Appeals in the Wilder case where the
proof showed that the door -- that Sheriff Wiler and
1468] some of his deputies -- that case is reported in 101 Fed.,
I forget the page -- 101 Federal, page -- second series -- I think it is page six hundred and something -- I have got the citation here, where Judge Bratton pointed out that although the evidence showed a case on the part of the Sheriff and his deputies which made him subject to the penalties of the laws of the State of Oklahoma, in that he did not enforce the laws of the State of Oklahoma, he was still under no duty to enforce the laws of the Internal Revenue Department of the United States. There the charge was similar to here.

Now, although that is the picture, we go further, and we see, Your Honor, where these liquor dealers - most of them licensed by the Government, or not licensed, or at least the Government has accepted their money for the payment of a tax, so they can carry on the business without molestation by the Government -- are in this business -- they are in the business, Your Honor, before April 1, 1956, they are carrying on a business that is illegal against the laws in this -- which violates the laws of the State of Oklahoma, but their business of selling liquor in the City of Tulsa to consumers, their business of buying liquor under their license or certificate or stamp, from persons who wholesale it, even though they wholesale it illegally, is not a business in violation of the laws of the United States. They are carrying on that business - they have been carrying it
on for years under the proof in this case. This business
1469] of carrying on retail liquor stores, or businesses in the
City of Tulsa did not start April 1, 1956; it has been going on, all of these witnesses say, for months and years. So what happens? They decide that they will conspire or agree -- and I am willing to call it conspiracy -- if they can with the police officers of the City of Tulsa to avoid the prospect of arrests and search and seizure by the vice squad of the City of Tulsa. There is no deal with reference to the Federal Government; there is no deal with reference to the County Officials or the State officials of the State of Oklahoma. They want to avoid the molesting and disturbing possibility of being raided by the Police Department and losing their liquor from their delivery cars or their plants searched that might be found within

the City of Tulsa. So, we -- to take the Government's evidence at its best, we find that the officers and the bootleggers conspire and agree together -- to do what? Well, carry on our business as bootleggers. You turn your faces the other way and don't bother us.

In the first place, now, they are under no duty to enforce those laws laid down by the Congress with reference to the liquor business. They are under no duty to enforce those laws. They are derelict in their duty to the City; they are derelict in their duty to the State; in waht? In that they are not going to bother these bootleggers, in return for which the bootleggers pay tribute just like they did in the Wilder case where
1470] those bootleggers in Creek County were paying the Sheriff and his deputies -- to do what? To avoid search and seizure and arrest for violation of the State law.

Here the plan was that the bootleggers would be without molestation for violating the ordinances of the City of Tulsa. In other words, these officers are here charged with having agreed to let them run and not interfere with them if they paid off; and for those who didn't pay off they would enforce the law to make them pay off. Now, that's the worst picture I can paint of it.

But the question then presents itself: Does that put them in the business of -- the business of retail liquor dealer? Remember the tax, Your Honor, of $50 a year is a tax imposed against an occupation. It is not a tax imposed for the selling of liquor at retail. It is a tax imposed for carrying on the business of a retail liquor dealer. Now then there is no evidence that -- that is presented here that shows any of the defendants whom I represent carried on the business of retail liquor dealers.

Now, the fact that they say, we won't enforce an ordinance, we won't bother you if you pay us money, is no worse from a legal standpoint than if they turned to the bootleggers and say, we just don't think much of this prohibition law; go ahead, boys; we are not going to bother you. In other words, the situation, from a legal standpoint, is no worse that they
1471] are ignoring the violations, allowing the bootleggers to run in consideration of the payment of money -- I say, it is no worse than if it was based upon a consideration of friendship. Because the question must be answered: Does that put them in the business of operating a retail liquor business or occupation? Does it subject them to a tax?

Now, the evidence here is, Your Honor, all these bootleggers had their retail licenses -- at least retail tax paid. The Government has proved it. They have introduced a document to show that. And everyone who has testified, when asked -- all except one; I forget his name -- the evidence shows a number of the defendants were in the wholesale business, as well. Well, then, so, is there anything in the evidence that shows that there was an agreement in the formation of this conspiracy to carry on the wholesale liquor business, or even to import liquor?

The Court: Well, of course the agreements in conspiracy cases are ordinarily inferred from the circumstances; you usually don't have -- direct proof of it.

Mr. Hickman: Certainly; and the agreement here was, we will carry on -- we will continue our business as --

The Court: Well, I think you -- of course you have your theory. What is your response to that?

Mr. Crawford: Well, if the Court please, I might at this time let Mr. Froeb -- I think he is prepared on it --

I would like to say a few words when he finishes, though.

1472] Mr. Froeb: If counsel is making his argument on this motion to dismiss on that basis, I think he is in bad shape because he brings himself right smack under the Briggs case. He is referring to the Wilder case -- a statement appearing in the Wilder case, 100 Fed. (2), I believe it was, that a city police officer has no duty to enforce the Internal Revenue Code. That was dicta in that case. A close reading of the case -- he says the charges were similar to this case here. The charges in that case were conspiracy to violate the moonshine laws. Every single time anybody in the moonshine business was approached in that case in the Sapulpa area who was in the moonshine business, they quit; they went out of business. They confessed and paid. All had retail tax stamps and all had wholesale tax stamps. That's why the case was lost. There wasn't a bit of evidence to show that pay-off was effective as to moonshine operators. In passing on the case, the Government -- not by way of dicta, held that local police officers have no duty -- official duty to enforce the Internal Revenue Code. The Briggs case shatters

that completely -- overrules it completely. In the Briggs case the Sheriff is the County Sheriff. He is a local officer. And the Court squarely holds he is involved in a conspiracy with wholesale liquor dealers. There is an implied agreement to violate the wholesale laws. But they don't get the wholesale liquor dealers' stamps in Tulsa, because you expose the
1473] whole operation; you have to have a 52-A and -B, showing who you are buying from and who you are selling to.

The Court: I am personally satisfied that that is an issue to be submitted to the jury on proper instructions.

Mr. Hickman: I do want to make this one reference, Your Honor: In the Briggs case do not lose sight of the fact that Briggs was actively participating in the liquor business. They proved that he seized liquor from one liquor dealer down there who wasn't in on the pay-off, but that liquor dealer had secretly marked that liquor so he could identify it. And it was seized by the Sheriff and it went from the Sheriff's office to this bootlegger through whom he was wholesaling whisky; in other words, he supplied the whisky. There was active participation there. Here there was negative action. So I think the Briggs case is not authority for that.

The Court: There is of course evidence of no action, and accepting payments derived from the operation of the business. And I think evidence from which it may reasonably be inferred that the parties were aiding and assisting and abetting in carrying on the operations which necessarily involved the importation into Oklahoma; and that if they did join -- join a conspiracy that was in existence, then, of course, they became a party to it and became responsible for everything done by these other parties.

As I indicated a little bit ago, I think probably the
1474] manner in which the case should be submitted is upon the theory that Gray and others were involved in the conspiracy to import into Oklahoma long prior to April 1st, and that the police officers who are defendants in the case are shown by this evidence to have joined the conspiracy at about that time.

Mr. Crawford: Your Honor, I would like to say, further, on that point that I think the evidence on behalf of the United

States does show a business and a mean of control to some extent. The primary objective of the -- of the conspiracy was to make money for the conspirators -- at least one of the objectives was. And part of the manner in which the money was to be made was through the importation and sale of alcoholic intoxicants contrary to Federal law. Now, the Federal law prohibits, of course, importation, which was done in the -- to some large extent in the first instance by Bill Edwards, and then there was a reshuffle and then again by Martin Edwards, from, coincidentally, from the same importer who had been importing throughout the years into Oklahoma. I think the evidence is sufficient on that. That, I believe, is one of the strongest points in the evidence, is the fact that the same importer, Don Gray, who had been in the conspiracy for a number of years with various Oklahoma liquor dealers was also one of the primary liquor importers which so ably joined themselves with and then began to profit by the illegal activity in so far as violation of Federal laws are concerned. Without exception none of these people [475] had wholesale liquor dealers' stamps and I think the reason is apparent; and the very fact that none of them did have it is evidence itself that they were aware of what the situation would be if they did have it. In so far as retail tax stamps are concerned, there are some who did not have them for the periods covered, which, notably, is the case of John Hood, who, I think the evidence has shown, has been in the liquor business for some period of time, who did not have even a retail tax stamp. And he was a part of the conspiracy; and that these laws were violated by the activities of the various individuals and that all conspirators profited by the activities in one way or another, or aided or abetted in the activities carried on by the supporters.

The Court: Well, what is the evidence that links Williams with the transaction?

Mr. Crawford: If the Court please, I think it has been established through the testimony introduced by the tax stamp and the evidence of Kenneth Pearson, I believe, that Mr. Williams was in the liquor business. Then, if the Court please, I think that intent to join himself into the conspiracy is evidenced by the testimony of Officer Bob Cleveland, who testified he was approached back prior to this March and April period by

Mr. Williams on how could he get into such an organization -- is there one? -- showing intent. And we have the testimony by both Bill Edwards and Bob Massey that money was delivered to
1476] them for Neil Williams in the business and I think that the records will show that Mr. Williams did not have any difficulty with these law-enforcement officers in so far as raids were concerned.

The Court: I can't consider that evidence; that will be hearsay as to Williams. I can't consider that evidence unless there is other evidence to bring him into the conspiracy, can I? He didn't pay Bill Edwards direct, as I understand.

Mr. Crawford: No, sir, his money was picked up under the evidence by Elmer Oakley who paid it to Bill Edwards.

The Court: Well, you don't have any -- I was thinking, now, about the evidence which would be admissible to show that he joined the conspiracy. Unless you -- once you get him in, of course this evidence of Bill Edwards and Massey would be admissible against him. Because they were co-conspirators. But that hearsay evidence cannot be considered in determining whether there is enough evidence to bring him in.

Better let me hear you further on that in the morning. At the moment I have some doubt that you have enough evidence to bring Williams into the case.

What about Stephens -- what about Stephens? What is the evidence with respect to Stephens? I remember one of these officers his partner, testified that upon inquiry he
1477] told him that what he didn't know wouldn't hurt him, or something to that effect.

Mr. Crawford: Well, if the Court please, the first place that Stephens enters into the picture is the testimony of Bill Edwards that Theopolis Scoggins was to handle that area of town, and that he wanted Stephens and Hunter. Then we have the fact that actually Stephens and Hunter were transferred as Negro raiders at approximately the same time, and they were transferred off at the same time. We have further the very direct testimony, the statement from Stephens to Bill Edwards in the presence of Scoggins; and then to corroborate that we have the testimony of Hunter which I think Your Honor is familiar with. I think

is brought directly into the conspiracy by the statement of Bill Edwards as to their conversations.

Mr. Hall: If Your Honor please, as to the statement made by Mr. Edwards, Your Honor will recall Mr. Edwards was always complaining because Stephens was not doing anything -- on two occasions talked to him about going after these people who had not paid, or something of that sort, and he -- he just wouldn't do anything -- he didn't do anything; he wasn't cooperating and he didn't cooperate. Now, as to -- as to the man Hunter, Hunter testified that he made the statement to Stephens that he should -- or rather Stephens made the statement to him that he should be careful or that he shouldn't pay any attention to that
1478] which he didn't know anything about. Well, I think that was good advice for anybody, that he should not worry about something that you don't know anything about.

The Court: It was, what you don't know won't hurt you.

Mr. Hall: That's right.

The Court: Well, there is lots in that too.

Mr. Hall: I think that is good advice. But the complaint here, and the Government's evidence affirmatively shows that the boy did go out and raid some of these men the Government claimed he was attempting to protect. He was appointed, I think on the 12th day of May and on the 15th day of May he goes out and raids J.D. Pitts, two or three days later he raids against him. And Alfonso was --

The Court: He raided Pitts before Pitts paid.

Mr. Hall: Your Honor, that is a voluntary statement on the part of Martin, and it isn't supported by anything except Martin's voluntary statement.

Mr. Crawford: I don't believe Martin has taken the stand yet.

Mr. Hall: Edwards' voluntary statement, Your Honor will recall I asked him if he didn't know that Oliver did raid this

boy, and he said, well that was before he paid off -- nothing at all to support it -- just the statement of Martin Edwards -- or Bill Edwards.

1479] Mr. Malloy: Bill Edwards -- please.

The Court: Well, I will give you further opportunity to -- some further opportunity to present argument in the morning. Of course I have been thinking about the legal problems involved in this case right along for several days and have some rather definite ideas about these things at the present.

Mr. Crawford: If the Court please --

The Court: It is presently my view that I will rule tomorrow morning that the motions for judgment of acquittal of all the defendants should be overruled except that of Wells, and Bulloch, and possibly Williams -- I want to --

Mr. Gotcher: May I be heard on that in the morning?

The Court: I want to be definitely advised as to what the evidence is pertaining to Williams.

Mr. Gotcher: Yes, sir, I took it down as it was testified to.

The Court: But, of course, I am not ruling on any of the motions now. Now, let me say this: I will expect the defendants to be prepared, of course, to proceed to put on their evidence starting as soon as we can after 9:30 tomorrow morning as soon as we can dispose of all these motions.

Court will be in recess.

1480] (Thereupon, the Court recessed until 9:30 a.m., Wednesday, April 24, 1957, at which time the Court reconvened, with all parties present and represented as before the recess, and with the jury present in the jury box; and thereupon the following proceedings were had, to-wit:)

The Court: Do you desire to ask leave to reopen?

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Mr. Crawford: If the Court please, I would like at this time to recall J.D. Pitts, at his request, and at the request of his attorney, if I may.

The Court: For what purpose?

Mr. Crawford: Well, to -- may I approach the Bench, so I won't make an accusation?

(A conference was had at the Bench, out of the hearing of the jury; and thereafter the following proceedings were had to-wit:)

The Court: The Government will be permitted to reopen for the purpose of calling the one witness, Pitts.

J.D. PITTS, recalled as a witness on behalf of the Government being previously duly sworn, testified as follows:

Direct Examination by Mr. Crawford

Q. Your name is J.D. Pitts? A. Yes, sir.

1481] Q. Mr. Pitts, you have been engaged in the liquor business for some period of time, have you not? A. Yes, sir.

Q. And you do know Theopolis Scoggins? A. Yes, I know him.

Q. For how long, Mr. Pitts? A. Oh, ten or twelve years.

Q. Now, Mr. Pitts, back during the spring or early summer of 1956, did you pay any money to Theopolis Scoggins? A. Yes, sir.

Q. And how many times did you pay him money? A. Well, I think about four times.

Q. How much was it each time? A. $25.

Q. And where were the payments made? A. At his store.

Q. Did you deliver the payments in person? A. Yes, sir.

Q. Mr. Pitts, that is contrary to your testimony which you gave in this Court yesterday. Have you told the truth today or did you tell the truth yesterday? A. I am telling the truth today.

Q. Why didn't you tell the truth yesterday? A. I

just hate to testify about it I guess.

The Court: What is your answer?

1482] A. I just hate to testify against him.

The Court: You deliberately testified falsely because you hated to give testimony against any person, is that your answer?

A. Yes, sir, I guess so.

The Court: What is that?

A. Yes, sir.

The Court: Why did you decide that you wanted to come back to the witness stand and tell the truth?

A. Well, I figured that was the best thing to do, to tell the truth.

The Court: You decided for your own good you had better come back and try to extract yourself from the predicament you got in yesterday by testifying falsely?

A. Yes, sir.

The Court: All right, you will be excused. -- Anybody want to cross-examine.

Mr. Hickman: I would like to ask him one question -- we didn't get to cross-examine him if you will remember.

The Court: All right.

Cross-examination by Mr. Hickman

Q. Were you in the liquor business before 1956?
A. Yes, sir.
Q. How long have you been in the liquor business?
1483] A. Oh, twelve or fifteen years off and on.
Q. Are you a retail liquor dealer? A. Yes, sir.

Q. Have you always paid the tax and procured the stamp from the Government? A. Yes, sir.

Mr. Hickman: That's all.

Cross-examination by Mr. Patten

Q. J.D., have you ever been convicted of any crime, J.D.? A. Nothing but liquor.

Q. How many times have you been convicted, approximately, please, sir? A. About three or four times I guess.

Q. How many times? A. I have an idea three or four times; I don't know just exactly.

Q. All right now, where is Mr. Scoggins grocery store located, in Tulsa? A. It is on Peoria and Young Street, I believe.

Q. Is that approximately the 2400 block? A. I wouldn't say; it is not accurate, but approximately.

Q. It is approximately that? A. I think so, yes, sir.

1484] Q. This money you gave Mr. Scoggins, what month was that, if you remember, please, sir? A. Well, I don't remember what month it was.

Q. Well, do you remember when the city campaign was? A. Yes, sir.

Q. In April. A. March or April one, I don't remember what months.

Q. Well, was the money given before the campaign in April or after? A. It was after.

Q. All right now, what was this money given for, J.D.? A. Well, I don't know what it was for.

Q. Well, did you have any conference with Mr. Scoggins relative to the campaign in which he was running, up on North Peoria in March or April? A. I don't remember.

Q. Well, had you promised him anything relative to the campaign, on that campaign out there in his side of town? A. I probably did; I don't remember.

Q. Well, did you promise him you would give him some money for the campaign out there? A. Well, I usually donate to the campaign.

Q. All right. And so, it is money you gave him relative to donation on the campaign at that time, city election? A. Well, I guess it was -- that is what I thought it was for.

1485] Q. All right now, this money that you gave Theopolis Scoggins then wasn't for any liquor protection or protection of any kind, was it? A. Not that I know of.

Redirect Examination by Mr. Crawford

Q. Mr. Pitts, who did you inquire of to determine who you should pay the money to Scoggins? A. Well, I first talked to Bill Edwards.

Q. And did he tell you to see Scoggins? A. Yes, sir.

Q. So you saw Scoggins. And then for a period of four or five different weeks you paid the $25, is that correct? A. Yes, sir.

Q. And you were in the liquor business at that time? A. Yes, sir.

Mr. Crawford: That's all.

The Court: Were those payments made you say after the election was over?

A. Yes, sir.

The Court: And why did you think you were making campaign contributions if the election was already over?

A. I don't know, Judge.

The Court: Did you come back here to the witness stand to tell the truth or not?

1486] A. Yes, sir, I sure did.

The Court: Well, do you know why you were paying the $25?

A. Yes, sir.

The Court: Did you have a conversation with somebody as to why you were paying the $25?

A. Yes, sir.

The Court: Who was that with?

A. Bill Edwards.

The Court: Tell the jury what that conversation was.

A. Well, he told me Theopolis would take care of us; that would be all right.

The Court: He said you would be all right, huh?

A. Well, I wouldn't be bothered too much.

The Court: Wouldn't be bothered by whom?

A. City police.

The Court: All right.

Cross-examination by Mr. Patten

Q. J.D., were you raided during the month of April, May or June of '56? A. Yes, sir.
Q. You were raided then in those months, is that right? A. Yes, sir.
Q. Now the raids, which you had, were you raided as much 1487] in '56 as you were in '55? A. Well, I couldn't tell any difference.
Q. Beg your pardon? A. I couldn't tell much difference in it.
Q. In other words, the money which you were paying Scoggins wasn't doing you much good, was it? A. No, sir.

Redirect Examination by Mr. Crawford

Q. Were you raided, Mr. Pitts, during the weeks you paid Scoggins? A. I think I was raided about twice.
Q. And who raided you? A. City police.
Q. Well, which officers? A. Oliver Stephens and Red.
Q. Red who? A. Red Webber.
Q. All right, did you say a white officer was with Stephens at one time when you were raided? A. Yes, sir.
Q. Did they find any liquor? A. No, sir.
Q. Did you have any advance notice that a raid was going

to take place? A. No, sir, I didn't.

Q. Did they ever confiscate any liquor from you during
1488] the time you were paying Scoggins? A. Yes, sir.

Q. When was that? A. I don't remember exactly what month it was; they taken liquor away from me a couple of times I know.

Q. How much did they get? A. Oh, a couple or three packages at a time.

Mr. Crawford: That's all.

The Court: All right, that's all.

I think perhaps I should say to the jury that I doubt that the testimony of this witness has much evidentiary value and I doubt that it is worthy of much credence in view of the circumstances under which it was given. The Court permitted him to come back and testify because it was his request that he be permitted to do so to mitigate the possible perjury offense which he says that he committed yesterday. That was primarily the purpose of permitting him to come back and testify.

Do you have any other witnesses?

Mr. Crawford: No, Your Honor, we have no other evidence that would not be cumulative and possibly therefore not admissible

The Court: The Government rests then.

Do you care to present further argument on these
1489] motions?

Mr. Hickman: I want to make another motion, Your Honor, if I may, on behalf of the defendant Peterson.

The Court: All right.

Mr. Hickman: We move that the Court strike from the consideration of the jury the testimony of Archie Moore, and Albert Smith, police officer, Albert Smith, with reference to a lug of whisky that the defendant Peterson allegedly sold to Archie Moore for $11 in 1953, according to Moore's testimony,

and in 1954, according to Smith's testimony, for the reason that it cannot be deemed an overt act in pursuance of any conspiracy proven in the record here in this case and that it is prejudicial, being an isolated incident that cannot be considered under all the evidence as an overt act committed in pursuance of a previously existing conspiracy.

Mr. Crawford: If the Court please, I request that that motion not be granted for the reason that while it may not be an overt act in furtherance of this conspiracy it shows an association there and it substantiates the very strong probability that defendant Peterson did pick up this money from Archie Moore. There was a relationship existing there earlier, and that it has evidentiary value to show an association between Moore and Peterson, and a course of conduct, so to speak.

The Court: Well, it would have some value in that respect and on the other hand the possible prejudicial effect I believe outweighs it -- it is an isolated transaction and I don't
1490] believe it is admissible on the theory that it tends to disclose intent, or a course of conduct or guilty knowledge of that conspiracy itself. So, I will sustain that motion and the jury will be admonished not to give consideration to the testimony pertaining to that one transaction between the defendant Peterson and Archie Moore.

Now any other motions?

Mr. Ungerman: If Your Honor please, upon the Government having rested its case, after having been granted permission to reopen, this morning --

The Court: Well, it will be considered that all these motions are renewed.

Mr. Ungerman: That is what I was wanting the record to show, all the motions for judgment, and acquittal, are renewed at this time on behalf of each of the defendants separately.

The Court: Does anybody care to make additional argument?

Mr. Hall: On behalf of Oliver Stephens, since adjournment

I have had the opportunity of reviewing the testimony from the transcript, and there are one or two things I would like to call to Your Honor's attention in urging our motion to dismiss as to Oliver Stephens.

The Court: I think then I had better excuse the jury
1491] for a few minutes. I hope that it doesn't require more than ten minutes or so to dispose of these matters.
And you will be excused from the courtroom, but don't leave the building, please; you better remain in the hallway on call because it probably won't be very long.

(Thereupon, the jury retired from the courtroom and thereafter the following proceedings were had to-wit:)

The Court: All right, Mr. Hall.

Mr. Hall: If Your Honor please, since adjournment I have checked over the transcript of this testimony, all of the testimony relating to the part Stephens is alleged to have played in this alleged conspiracy, but two witnesses mentioned, that is, Mr. Edwards and the witness Hunter. And I want to call Your Honor's attention briefly to the testimony of Edwards. In the first place he tells us that they had a meeting, the first time now, -- our participation in this case was discussed was out at a meeting on Cincinnati, and at the Pines Theatre.

The Court: Just tell me the gist of his testimony as related to Stephens; you don't need to read it to me.

Mr. Hall: His testimony is, Your Honor, that Stephens and Hunter had already been appointed to the raiding squad at that time contrary to the allegation of the information with respect to the overt act in which it is charged that Mr. Livingston appointed us to the raiding squad. Then he says that he had two conversations with the defendant Stephens, and in both instances
he is insisting that Stephens will get out and raid, and
1492] as to that he says they didn't do anything, and that is what has happened, and they were replaced. Now -- and they didn't arrest anybody. Then he says he went back to him again and talked to him about making some raids, and he never did.

So that, if Your Honor please, we take the position that the testimony of Edwards himself completely negatives the idea of our participation in this alleged conspiracy. He tells you in plain unequivocal terms that we didn't do one single solitary thing.

The Court: Is the only other mention of Stephens a statement made by Hunter?

Mr. Hall: The only other mention made of Stephens is the statement by Hunter.

The Court: About the conversation --

Mr. Hall: That's right, we don't believe it is sufficient, if Your Honor please.

Mr. Crawford: May I see where that testimony is, Mr. Hall, that you are speaking about.

Mr. Hall: While he is checking that, Your Honor, I would like to call Your Honor's attention to the fact that he testified that it was agreed that Hunter and Scoggins would be the ones who would play this part in the alleged conspiracy and yet Hunter does nothing; he is an officer of the law -- he is not indicated; he isn't even referred to as a co-conspirator.
1493]

Mr. Crawford: I think, Your Honor, there is to some extent a misconception of the record here on this. The first testimony of Edwards was that Hunter and Stephens were put on there at Scoggins' request; he was going to run it over there; they all went out together because they didn't get the job done; Stephens has been meeting there with Scoggins and with Edwards, and the whole matter was discussed, and they were going to go out and raid some more so that there would be more pay-offs coming in. That was the whole purpose of it. Bill Edwards at the time was not a police officer, superior to Stephens; Theopolis Scoggins at the time was not a police officer or superior to Stephens. I think it is --

The Court: That's all I want to hear; Mr. Gotcher did you want to call attention to the Williams matter?

I am going to overrule your motion.

Mr. Gotcher: If Your Honor please, this is in connection with defendant Bernard Neal Williams, and as I told Your Honor yesterday, he was mentioned three times during the course of this trial, the witness, Mr. Cleveland, who was the forty-seventh witness testified he met him out at a drug store sometime, and that Bernard asked him -- asked him how he could get in -- how to get in the fix, and Cleveland answered him, he said, he didn't know -- you ought to know more than I do. That is one mention.

The next mention is by witness sixty-two -- witness No. 1494] 62, and that is John Bill Edwards, and therein Bill said that Elmer Oakley gave him some money that he had gotten from Neal Williams, and you sustained the objection to that portion of the testimony in connection with Neal Williams.

The next time he was mentioned is by Bob Massey, and the same situation existed there, that Bob Massey testified that Elmer Oakley gave him some money that Neal Williams gave Oakley, and at that time you reserved your decision upon my objection saying that if they didn't produce independent evidence, then you would sustain -- or put him out.

The Court: All right, what about that?

Mr. Crawford: Well, if the Court please, the testimony shows by the witness Kenneth Pearson, if not others, that Neal Williams was in the liquor business, he was operating here in the City of Tulsa --

Mr. Gotcher: We haven't denied that.

Mr. Crawford: Well, I'm just making my argument, Mr. Gotcher.

Mr. Gotcher: Yes, sir.

Mr. Crawford: It also shows that through the first phase of this arrangement that pa ents were received, actual money was received by Bill Edwards from Elmer Oakley and in behalf of Neal Williams, and the statement of course there as to where it came from was testified to -- I think there was an objection

1495] made at the time. Then after Martin Edwards replaced Bill Edwards and Bob Massey became the pick-up man, we have the same situation occurring. It is inconceivable that those money were donations --

The Court: The trouble is --.

Mr. Crawford: In addition we have the records which have been introduced here to show that the man during the time that he was making -- that these payments were coming in, was not arrested by the city raiding squad.

The Court: The only proof you have of payments made by Williams was based on hearsay testimony; and it is not admissible, therefore, against him, unless there is other competent evidence to show that he was a party to the conspiracy.

Mr. Crawford: Well, sir --

The Court: It is one of the great difficulties we have is to separate the evidence that may not properly be considered from that which may be considered in determining whether a prima facie case has been made. It is much the same situation as we have with respect to the defendant Bulloch.

Mr. Crawford: We have from the man himself the endeavor to get into the fix, or to be taken care of.

The Court: Yes, as I remarked yesterday, the evidence was quite clear that he was trying to get in; and I thought perhaps there might be enough evidence to show that he succeeded. And I kind of think he did, but I don't believe the proof is sufficient to go to the jury. So, I will sustain the motion insofar as Williams is concerned. I sustain the motion.
1496]

Mr. Ungerman: If Your Honor please, in regard to the defendants Harp and Cole and Jackson, there is no evidence in this record to show that they participated in any conspiracy to violate the Internal Revenue Act at all.

The Court: I think there is circumstantial evidence which warrants submission of that issue to the jury.

The motion of the defendant Williams, for judgment of acquittal, is sustained. He will be released.

The motion of the defendant Wells, for judgment of acquittal is sustained. He will be released.

And the motion of the defendant Nolen Bulloch for judgment of acquittal will be sustained; and he will be discharged.

Motions of all other defendants in the case are overruled. And the -- I will give the jury some instructions when we call them back in, to indicate -- of course, the -- the future course of the trial.

Call the jury.

Mr. Ungerman: We would like to make an additional motion.

The Court: An additional motion?

Mr. Ungerman: Yes, sir.

The Court: What is it?

1497] Mr. Ungerman: Come now the defendants Jones, Livingston, Gott, Jackson, Cole, Harp, Peterson, Stephens, McAfee, Scoggins, Edwards, Oakley, Hood, Johnson, Rucker, Griffing and Gray, and jointly and separately move this Honorable Court to declare a mistrial in this case for the reason and upon the grounds that heretofore in this trial the Court has, over the objection of the defendants separately and jointly permitted the introduction of testimony relating to alleged attempted pay-offs from prostitutes; and that the same is immaterial, irrelevant to the issues involved, and the testimony so admitted was highly prejudicial to the rights of these defendants.

The Court: I don't think it is prejudicial. I don't think it was connected with the defendants in any way. I don't think it was prejudicial. So the motion is overruled.

Mr. Shortridge: If the Court please, the defendant Don Gray moves the Court to strike, and for mistrial, with regard to the testimony concerning one Paul Neal. There was testimony by Agent Starrett that he pursued and arrested Paul Neal -- not connected up with the defendant Gray -- Paul Neal is not an alleged conspirator -- he is not from the District of this

Court; he wasn't arrested in the District of this Court and it is an isolated, disconnected transaction that is highly prejudicial. For that reason we request a mistrial.

The Court: Overruled.

(Thereupon the Jury was returned to the jury box, and
1498] the following proceedings were had, to-wit:)

The Court: I think it is proper for the Court to advise the jury with respect to certain rulings that have been made on motions interposed at the close of the Government's case.

In the first place, I want to make some observations of a rather general character. I have concluded that the evidence presented by the Government in this case is not sufficient to go to the jury on the question of whether the defendants or any of them entered into an unlawful conspiracy as charged on or about the year 1948. It is my view that the alleged conspiracy going back to 1948 has not been established.

In that connection you should have in mind that effective in the month of May, I believe it was in 1947 the Legislature of the State of Oklahoma made a change in the law of Oklahoma with respect to the transportation of whisky, or importation of whisky into this State. As a result of that change in the Oklahoma law a situation was brought about whereby the Federal Act which forbids transportation of whisky into any state in which the law of the State prohibits importation of all whisky into that state or which under state law has in effect an appropriate permit system, no longer related to the State of Oklahoma. So, for a period of approximately four years, and until the month of May of 1951, it wasn't a violation of Federal law for whisky to be imported into the State of Oklahoma. There
was evidence presented in the case with reference to the
1499] payment of certain money in the year 1952, I believe it
was -- payment -- testimony of the witness Cecil Boone that he collected money from certain bootleggers and turned it over to a police officer by the name of Arthur Graves. There was testimony of Red Carter to the same effect. But it is my opinion that the testimony with reference to the transactions occurring about that time is not sufficient to establish a continuous conspiracy participated in by these defendants, or any of them as charged in this indictment.

It is my view that the evidence is sufficient to make a prima facie case, that is, to go to the jury, under proper instructions, on the formation of a conspiracy by the defendants or some of them commencing on or about March of 1956 and continuing on down to the date upon which the indictment is returned in this case. Of course you will be given more definite and more specific instructions in that connection at the close of the case. It is presently my vidw that when the case is closed it will be submitted to you for the purpose of determining whether an unlawful conspiracy was entered into by the defendants or some of them as charged in the indictment on or about March of 1956, and whether at least one overt act was committed in furtherance of the conspiracy -- at least one of the overt acts charged in the indictment.

So, you are advised now that the evidence pertaining to
1500] transactions occurring prior to on or about March 1956
is not deemed by the Court material to the conspiracy issue as it will be finally submitted to you, and that such evidence should be disregarded and not considered -- with one exception which occurs to me now, and that is the evidence pertaining to the importation of liquor into the State of Oklahoma by the defendant Don Gray and other defendants, from the date in May 1951 on down to the formation of the alleged conspiracy, and then, of course, on down to the date of the return of the indictment in this case. Now, the evidence pertaining to the alleged unlawful importation of whisky into Oklahoma during the period from May 1951 to about March 1956, the date of the alleged formation of the conspiracy among the defendants, is to be considered by you only as having -- as to any bearing that it may have on the intent of the parties with respect to whisky transactions occurring during the period that the conspiracy was in effect, if you should ultimately find that it was in effect; and also, it may be considered for the purpose of showing a course of conduct upon the part of the defendant Gray and other defendants to whom such evidence pertains with respect to those matters to which the evidence relates.

Now then I will turn to some more specific matters.

The Court has directed a verdict of acquittal, has entered a judgment of acquittal as to the defendant Clifford E. Wells, and a judgment of acquittal as to that defendant
has been entered because of my conclusion that the evi-
1501] dence is not sufficient even unexplained and uncontradicted

to permit a finding beyond a reasonable doubt of his guilt.

In that connection I want to say to you, in order to emphasize it, that the evidence pertaining to the possible exploitation of prostitution here in the City of Tulsa should not be considered by the jury. It has no probative value -- it has no bearing, is not material to any of the issues remaining in the case to be submitted to the jury, and should be completely disregarded in arriving at your verdict.

In addition, the Court has entered a judgment of acquittal as to the defendant Nolen Bulloch. And I think I should explain to the jury why that has been done.

There was evidence presented in the case with respect to payment by Cleo Epps of certain money to Nolen Bulloch back in 1948. It should be borne in mind that the indictment upon which all the defendants are being tried charges them with an unlawful agreement to violate the two Federal statutes pertaining to the liquor traffic. The evidence in my judgment pertaining to the 1948 transactions that Cleo Epps testified about indicated that the payments made to Bulloch at that time were in connection with gambling establishments operated on the Tulsa and Creek County line. There wasn't sufficient evidence, in my opinion, to connect the alleged payment to Bulloch in connection with the carrying on of a whisky business. Furthermore, at that time the importation of whisky into Oklahoma was not a viola-
1502] tion of Federal law. The only conceivable connection or relation it could have had to the liquor business as charged in the indictment would be with reference to the second count in which the defendants were charged with carrying on a retail and wholesale liquor business and wilfully failing to pay the special tax as required by federal law. The evidence in my judgment is not sufficient to show that the payments had any relation with the operation of either a retail or a wholesale liquor business and the wilful failure to pay federal tax in connection with the operation of that business. Another thing, the evidence in my judgment, as I have heretofore stated, does not establish a continuous conspiracy upon the part of the defendants beginning back in 1948. If it tended to establish a conspiracy at all, it was limited to Bulloch, Epps, perhaps Dale Hines, Roy Farley, and, I have forgotten, one or two others, maybe, who testified with reference to having contributed to the pot. The separate conspiracy, if it was, then terminated back in 1948 or 1949; and the prosecution for a separate and distinct conspiracy

which terminated in 1949 would be barred by the five-year statute of limitations.

Now then, we come to the alleged unlawful agreement that was entered into by the defendants, or some of them, on or about March of 1956. In my opinion the evidence tending to connect the defendant Nolen Bulloch with that unlawful -- alleged unlawful agreement was substantially limited to the testimony of Edwards -- the witness, Bill Edwards, and
1503] Charley Hirrlinger, with reference to conversations occurring at the meeting which took place, I believe in May of 1956, at which, according to their testimony, Paul Livingston outlined the manner in which the money would be divided percentage-wise, and made the statement that ten per cent of the money was to go to Nolen Bulloch. The evidence is undisputed that Nolen Bulloch was not present at that meeting. I believe I advised you at the time the evidence was presented that iw ould be hearsay as to Nolen Bulloch because he wasn't there, and could be considered by the jury only in the event there was independent, competent evidence sufficient to establish that Nolen Bulloch became a party to the alleged unlawful agreement. Of course, once there is sufficient evidence to establish that a defendant became a party to an alleged unlawful conspiracy, then thereafter statements made by a member of the conspiracy are admissible against all defendants who are a party to that conspiracy even though it may be hearsay as to them -- even though it is a statement not made in the presence of the particular defendant.

Now, in addition, there was some testimony by Boone, I believe, that -- he made a payment of $100 to Nolen Bulloch in an effort to avoid publication of his financial statement which came to light in a divorce action that was being tried in the District Court of Tulsa County. That evidence was not material to the issue on trial in this case. It was admitted only
1504] upon the theory that it might have some bearing on the question of intent or course of conduct. So that evidence does not tend to establish the charge that Nolen Bulloch was a party to the alleged conspiracy. Disregarding, as I must, for the purpose of this motion, the testimony of Edwards and Hirrlinger with respect to Nolen Bulloch; disregarding it as I must upon the ground that it is hearsay testimony as to him because he wasn't there, then upon a consideration of all other evidence for the purpose of determining whether there is other evidence --

competent evidence sufficient to go to the jury on the question of whether Nolen Bulloch became a member of the conspiracy, I conclude that there isn't sufficient evidence of that character. And, therefore, I have entereed the judgment of acquittal.

Another defendant, Bernard Neil Williams, has been discharged and the Court has entered a judgment of acquittal as to that defendant. And with respect to Williams the situation is much the same. The Court admitted some hearsay testimony as to Williams. In the first place, there was testimony, I believe, of Officer Cleveland that Williams came to him and inquired about a pay-off and wanted to know how you could get in. And then the only other evidence with respect to Williams tending to connect him with the alleged conspiracy is that of the witness Bill Edwards, who testified that the defendant

Elmer Oakley paid him $400 on two or three or more occa-
1505] sions, and he, Oakley, said that a part of that money was

for Neil Williams. Williams was not present, and, of course the evidence was hearsay as to him. In addition, the witness Bill Massey likewise testified that certain payments were made to him by Oakley that he, Oakley, represented that a part of the money was being paid on behalf of Neal Williams; and Williams was not present, so that evidence was hearsay as to Williams. I must disregard that testimony in determining whether there is sufficient evidence to make a prima facie case against Williams; and when I do that I conclude that there isn't independent, competent evidence sufficient to go to the jury with respect to Williams' participation in the alleged conspiracy. So, accordingly the judgment of acquittal is sustained as to him.

All right.

Mr. Hickman: On behalf of the defendants Jay L. Jones, Jack Gott and William Thomas Peterson, I announce that we stand on our motion, and rest.

The Court: Name those again, Mr. Hickman.

Mr. Hickman: Jones, Gott and Peterson.

Mr. Malloy: On behalf of the defendants Martin Edwards, F. Lee Johnson, Griffing -- Fred Griffing, and John Hood, we stand on our motion and at this time rest.

Mr. Gotcher: On behalf of Elmer Oakley, and Donald

1506] Rucker, we stand on our motion and rest at this time.

Mr. Ungerman: If the Court please, on behalf of the defendants Paul J Livingston, Leo Brantley Jackson, Johnnie E. Cole, and James Richard Harp, we stand upon our motion for judgment of acquittal and rest.

Mr. Page: If Your Honor please, on behalf of the defendant John E. McAfee, we stand on our motion for acquittal, and other motions, and rest.

Mr. Patten: On behalf of the defendant Theopolis Scoggins, the defendant stands on his motion for acquittal, and other motions, and rests.

Mr. Hall: On behalf of Oliver Stephens we stand on our motion for judgment for acquittal, and other motions, and rest.

Mr. Shortridge: If the Court please, I understand that the conspiracy with regard to Count 2 is limited to a period starting in 1956.

With that in mind I would like to call this gentleman who is an attorney for the Internal Revenue Department.

JAMES F. GAULDING, called as a witness on behalf of the defendant Don Gray, testified:

Direct Examination by Mr. Shortridge

Q. State your name. A. James F. Gaulding.

1507] Q. Mr. Gaulding, you were previously sworn as a witness?

A. I was.

Q. And I believe you are an attorney with the Internal Revenue Department? A. That's correct.

Q. Familiar with the laws regarding, and tax concerning the sale, manufacture, transportation or anything else concerning liquor? A. I believe so.

Q. I will hand you herewith, Mr. Gaulding, Defendants' Exhibit 2, and ask you to tell the jury what that is, please, sir, -- there are two pieces of paper, perhaps you should

describe them both. A. The first page of this exhibit is a special tax stamp; it is numbered 367586; it is as a wholesale liquor dealer, shows payment of tax by Don Gray, for Don Gray Beverage Store No. 2, Route 1, Opolis, Kansas. It is for the year ending June 30, 1956.

The Court: Are you trying to establish that the defendant Don Gray --

Mr. Shortridge: Yes, sir, he had paid the tax.

The Court: Let me finish my question.

Mr. Shortridge: Yes, sir.

The Court: Paid the wholesale liquor dealers tax for the
1508] various places of business that he operated in the State of Missouri?

Mr. Shortridge: Yes, sir.

The Court: In Kansas?

Mr. Shortridge: Yes, sir.

The Court: They were all in Missouri?

Mr. Shortridge: Yes, sir, they were all Missouri, the address given, Route 1, Opolis, Kansas, that is a mail address, but then Your Honor will see that the address on the stamp is in Missouri.

The Court: Is there any contention to the contrary?

Mr. Crawford: Not to my knowledge, Your Honor; I think it is endeavoring to establish a fact not in issue in this case.

The Court: You don't contend that he didn't have wholesale liquor dealers license --

Mr. Crawford: No, sir, I -- I --

The Court: And that he didn't pay the requisite tax

required in connection with the operation carried on at his various places of business in the State of Missouri?

Mr. Crawford: If the Court please, so far as his operations within the state up there, I have no information; we are not going to make a contention that he did not pay those taxes and there is no reason I see for this type of evidence; we don't intend to oppose it.

1509] The Court: I think it is wholly immaterial.

Mr. Shortridge: Then may it be stipulated --

The Court: It may not be stipulated because -- I suppose he can't because the United States District Attorney is without knowledge on the subject, but he doesn't contend, nor is it charged that Don Gray failed to pay the tax in connection with his operations in the State of Missouri. So it is not an issue in the case.

Mr. Shortridge: I couldn't tell from the indictment.

The Court: Well, I could -- and I think you could.

Mr Shortridge: The place of the conspiracy is alleged --

The Court: Well, at any rate, we have that settled now, do we not?

Mr. Shortridge: I would like for the Government to stipulate because -- or I would like the Court's permission to make an offer of proof.

The Court: Well, I don't think you need anything further on the subject; there is no contention raised, Mrs. Davis, and Gentlemen of the Jury, no contention made, no charge made that Gon Gray failed to pay the special tax required by law in connection with the several places of business that he operated in the State of Missouri.

That's all.

Mr. Shortridge: I would like to ask the witness one

1510] other question.

Q. (By Mr. Shortridge) Now with regard to those licenses so far as payment of tax goes, the delivery can be made anywhere I believe you testified. The Witness: We object to you calling this a license.

Q. I'm sorry, so far as payment of the taxes go -- delivery can be made anywhere, can it not? A. From a substantive matter, yes. Now I can't answer that without getting into the Judge's province. That doesn't mean that because of the manner of the delivery that it wouldn't be an offense, and because of some other factors, but a man can deliver his liquor --

Q. But it wouldn't violate any tax law, that is what I am asking you. A. For him to deliver his whisky --

Q. Anywhere in the United States. A. It is possible that it would violate a law administered by the Internal Revenue service if the man delivered his whisky -- if a man in Missouri delivered whisky into Oklahoma, certainly.

Q. I'm not asking you about transportation. A. Well, that's a law administered by the Internal Revenue service.

Q. Yes, sir, but it is not a tax law, is it? A. It is not an Internal Revenue law.

Q. Such as charged in Count 2; you are familiar with
1511] Count 2 charging violation of Internal Revenue law?

The Court: This is improper argument with the witness. I am going to tell the jury what -- I may be wrong about it but they agreed to follow my instructions, so I am going to expect them to live up to that agreement.

Mr. Shortridge: I believe that's all.

The Court: I will instruct them as to the law to be applied.

Mr. Shortridge: That's all. Let the record show that the defendant Gray rests.

* * * * *

1512] The Court: Of course the record should show that the witness called on behalf of Don Gray -- the Government rests?

Mr. Crawford: Yes, sir.

The Court: Do you want to renew your motion?

Mr. Shortridge: For a judgment of acquittal on Count 1 and on Count 2.

The Court: The motion is overruled.

Mr. Shortridge: For the defendant Gray for the reason that the evidence is insufficient to prove the charge contained in the indictment, in either count.

The Court: Overruled.

Mr. Shortridge: May I have the Court's permission to withdraw defendants' exhibits 2 and 3 and substitute therefor photostatic copies -- they were not admitted; may I have permission to withdraw --

The Court. I don't believe you even offered them.

Mr. Crawford: We have no objection to him withdrawing them entirely -- they were not admitted.

Mr. Shortridge: All right.

* * * * *

1513] (And thereafter, and at 9:30 A.M., Thursday, April 25, 1957, all parties being present and represented by their counsel of record, the following proceedings were had in chambers:)

The Court: I want to dictate a stipulation with all counsel present, Mr. Reporter.

It is stipulated that in all instances where reference was made in the testimony to whisky or intoxicating liquor, in the course of the trial, that the reference was to distilled spirits containing more than 4 per cent of alcoholic content, by volume; that no liquor to which reference was made was

accompanied by a permit or license issued by the State of Oklahoma; the parties agree that to avoid going through the procedure of reopening the case that it will be considered that this stipulation was entered into before the case was closed.

The record should further show that the Court has read to counsel a rough draft of the instructions which he proposes to give to the jury so that they may be fully advised before making their arguments. The only thing not included is any possible comment by the Court on the evidence, and the instruction with reference to the credibility of the witnesses.

Counsel for the defendants have indicated disapproval of the reference made in the instructions to the necessity for the filing by wholesale liquor dealers monthly of forms 52-A and 52-B.

Now is there anything else you want to say for the record 1514] about the instructions?

Mr. Shortridge: Well, just to save the record, I think that we should -- of course the rules require the exceptions to be made after the charge.

The Court: Yes, I will give you that opportunity, but I want you to indicate now anything you complain of while I still have time to correct it.

Mr. Ungerman: For the purposes of the record then the defendants suggest that by virtue of the fact that on the 29 requested instructions, that some were not given in the form as requested by the defendants and objection is taken thereto for that reason.

Mr. Shortridge: I think there is one other thing that should be covered -- well, that will do.

(And immediately thereafter, and at approximately 9:35 A.M., Thursday, April 25, 1957, Court reconvened with all parties present and represented as before the recess, and with the jury present in the jury box, and the following proceedings were had to wit:)

The Court: Mrs. Davis, and Gentlemen of the Jury, I think I should first tell you to get braced, because you are in for a full day.

We are all of course quite aware of the importance of the case. There are many people involved, and a number of counsel representing different parties in the case.
1515] We have spent a great deal of time hearing evidence, so the parties will necessarily have to have considerable time for argument in the case.

In this type of case the instructions are difficult. It takes quite sometime to properly instruct the jury. So it has been necessary to allot myself some little time to give you proper instructions.

* * * * *

1517] Mr. Crawford: Mrs. Davis, and Gentlemen of the Jury, I think perhaps the most help I can be to you at this time is to review the evidence as it pertains to the defendants, and as I am confident the Court will instruct you, will be admissible for your consideration. You have been advised that the indictment is divided into two counts, the first count of course deals with the conspiracy to import into Oklahoma, and the importation of intoxicating liquors, unlawfully. The second count deals with the conspiracy to carry on the business of retail liquor dealer or a wholesale liquor dealer without paying the necessary Federal taxes thereon, and contrary to Federal law.

Now there are some things that I think will be very helpful to you in your understanding of the case, if they are not already well in mind. One, are the dates that are involved. At this time it will be important to you, by Government's exhibit 1, it is shown that April 30, 1956, was the date that the defendant Jay Jones was elected Police and Fire Commissioner. That same exhibit also shows that on May 8, 1956, he took office and that the defendant Paul Livingston was appointed to the position of Chief of the Police of the City of Tulsa at that time. Now the next date that bears some significance and understanding in carrying out this evidence is the date of December 13, and that is the date of the Federal raid in the North
1518] Tulsa area. I think you will recall from the evidence that after December 13 there were some changes made. Then

there is a date of January 8, which has been testified to as the date that the Federal Grand Jury convened here in this district; and of course the indictment itself alleges that the conspiracy continued until February 21, 1957. So those dates, April 3, May 8, December 13, of 1956, and January 8 and February 21 of 1957 are very important.

You will recall that some of the charts that were introduced into evidence showed transactions and actions between May 8 and December 13. There also has been testimony as to the organization of the vice squad of the Tulsa Police Department. It is important to bear in mind the organization of that vice squad and the positions filled on that vice squad by the defendants.

Now you understand from the evidence that the rooming house detail was composed of the two officers. It is a part of the vice squad. That the defendant Peterson was one of those officers; and that the tavern detail was composed of two officers, and that the defendant Jack Gott was one of those officers; and that the raiding squad was divided into two parts, one part was composed of three white officers, and the other part was composed of two negro officers. Now the three white officers during most of the period covered by the conspiracy as the Court I think will instruct you as to the dates, 1519] the three white officers on the raiding squad were the defendants Cole, Jackson and Harp. And of the two negro raiders, one was the defendant Stephens, and the other of course was Mr. Hunter, who testified here before you. Therefore out of these various positions on the vice squad, nine in all, all but three were filled at various times throughout the conspiracy by six of the defendants. You will recall the testimony of officer Hubbard, and the testimony of officer Hunter, all during this year, 1956, for a considerable period of time, it was the policy of the police department for the raiding squad -- the raiding squad, the three white officers and the two negro officers, to do the raiding, and that the other officers were not to raid. And of course you know from the evidence what happened when some of the other officers did raid. You remember Mr. Jacobs going to the dog pound, and Mr. Spybuck to the dog pound, and that type of thing; but that was the policy of the raiding squad, to do all of the raiding.

Now at this point I think there is one other thing that should be pointed out and recalled to your attention: That

the witness Bill Edwards testified that he, under this agreement, had authority to determine which liquor dealers would be in the agreement, and which ones would be out, and that he exercised that authority. And he also testified that ninety nine per cent of his business was selling liquor to other liquor dealers. There can be no question that he was engaged in the selling of liquor in wholesale quantities, and of course he had no wholesale stamp and he told you why he didn't
1520] -- because he would have had to have submitted, or been required to have submitted a form 52-A to the United States Government showing who he bought from, and the form 52-B, showing whom he sold to. The inference from that I think is obvious, -- with those records in the possession of the United States Government monthly we would have a complete list of all liquor dealers to whom he sold, and persons such as Don Gray, from whom he purchased. It is also obvious from that that the difficulties encountered in bringing those persons to trial would be greatly lessened by those forms submitted completely.

You will recall Mr. Bill Edwards testified he had authority to cut off a liquor dealer that didn't trade with him; that once with Bob Massey he did exercise that authority, but later let him back in.

Now on the importation count, we had several Alcohol and Tobacco Tax Agents testify in this courtroom before the jury. Mr. Burns testified for several years he observed cars going into Gray's liquor stores. Of course there was testimony as to four different liquor stores owned by Gray. These cars would go in and come out loaded, and that many of the cars bore Oklahoma license tags. Mr. Burns testified, as you recall, that he was in the Barnes Hotel in Anderson, Missouri, when he overheard a conversation between Don Gray, in which he said, we will
1521] be ready by 7 o'clock; that he called a Tulsa number, 724241, and that Gray left the store and went and obtained his Hudson, which he drove north then from the store and came back about 7 o'clock, and he saw Gray and other people loading lugs -- whisky into the Hudson sedan and then saw him depart. He also testified that the car then drove to an uninhabited area, and you recall the testimony throughout the trial of the transfers that were made away from Gray's stores, all in uninhabited areas, where there was little traffic, and but few houses, where the cars would meet under secretive conditions, transfer the whisky from Gray's vehicles to the Oklahoma dealers' cars.

In that particular instance you recall Mr. Burns testified after Gray's car went into the wooded area, after a few minutes another truck came out, and he stopped that truck and it was driven by Carl Harp, and the truck contained eighty-three cases of whisky. Mr. Harp testified that he was sent to Don Gray by a man named Barbour, to a spot in the woods there, where he met Gray; that he was attempting to bring the whisky that he had obtained from Gray back into Oklahoma. He stated of course he parked his truck in a secluded spot; then Gray had met him, and they had gone to the liquor store, loaded up Gray's car; gone back to the place there the truck was and loaded Mr. Harp's car. And Mr. Harp, as he came out, was apprehended by the agents, all of which goes to show that Don Gray was actively engaged in the liquor business and importing into Okla-
1522] homa to known bootleggers. The evidence shows that he knew they were from Oklahoma; he knew their business and he was selling to them. Now, Mr. Chance testified, he verified he was there at the time when Mr. Burns was there, he stopped Mr. Harp. Mr. Chance verified all this, and he said he had seen Gray personally loading the whisky from the store into the vehicle and that the whisky usually consists of lugs and he testified what the lugs were -- he testified that they were three-fifths, in one lug; he testified six pints; actually he said six pints also consist of a lug, and eight half pints consited of a lug, and that it was wrapped in brown paper. And he also testified that this practice of lugging is a practice peculiar to people importing into Oklahoma. Of course the reason for that is obvious: They can pack more in an automobile if it is lugged than if they sat it in there in cases. You recall one occasion when they stopped Mr. Gray's car, the back seat had been removed and there were some empty cartons, and things of that nature; obviously some more whisky can be packed into an automobile for transportation if it is lugged and the seat is out of the car.

Now there was additional testimony with regard to the activities of Don Gray's liquor stores and the cars coming in and out. The Oklahoma cars, and tags, moving out into areas where there was little chance of being observed. You
1523] remember that Mr. Starrett testified that Gray -- Don Gray's Greenwood Tobacco Store was located in the country; that his Horseshoe Store No. 1 was located in the edge of Anderson, Missouri; there is a city of about eight hundred

population, and obviously the liquor store wasn't there to serve those people in the city, a store of that size, doing that type of business. And he testified Gray's Horseshoe Store No. 2 was located south of Opolis, Kansas; here is this Store No. 2, from this testimony, doing a very large business, and he testified that Opolis, Kansas, had possibly one hundred or two hundred people there. There was also testimony by Mr. Starrett that Gray's Airport Liquor Store was located about a half a mile south of the Horseshoe Package Store No. 2, near Opolis, so there are two stores there in the vicinity of Opolis, in a village of one hundred or two hundred people, obviously carrying on a great business as indicated by the testimony there, under the 52-B, showing the sales by Joplin dealers to Don Gray.

Now, Mr. Starrett also testified that Mr. Gray -- Mr. Don Gray had been in the liquor business in one store or another during the past few years and that last year Don Gray handled more whisky than any other liquor dealer in Southwest Missouri. Of course it is just north, up in there, just north of Oklahoma, and over to this southwest, obviously from this evidence, have been used by the defendants and co-conspirators in this
1524] case to bring in their whisky into Oklahoma. And because of that large volume of business of course it was essential that the stores be located in areas where they were accessible to secluded spots where cars could move in and move out, unobserved in many instances.

Now, insofar as the importation is concerned, you recall that Archie Moore, one of the witnesses in this case, testified that he purchased from five to seven loads from Mr. Gray, back in late 1951. And he also testified that Gray called him -- that Gray called him about once a week in order to arrange for the orders. So, Gray was calling Tulsa. There again it is clearly established that Gray knew he was dealing with Oklahoma bootleggers. Moore testified Gray called him. Moore also testified when he first went up there and contacted Don Gray he told him at that time that he was an Oklahoma bootlegger and that he was buying this liquor for resale. So, there couldn't be any question about the knowledge on the part of Don Gray. You remember, after Mr. Moore testified, the question was asked -- Mr. Moore testified that he had sent a man by the name of Bill Curtis up to Don Gray's on some of those trips, and the question was asked by one of the defense counsel, why, Mr. Moore, do you

know for sure that he went to Don Gray's; and then of course the next witness was Bonnie Dotson who testified she rode with Bill Curtis on one of those trips, and that they did go to Don Gray's; so, even there, the evidence is conclusive on
1525] that point of his knowledge that he was dealing with Oklahoma liquor dealers, and it is obvious from the testimony that he was profiting highly from that.

We also had the testimony of James A. Johnson, -- he was an employee of Don Gray's; he worked for Don Gray. You recall he testified that he loaded many Oklahoma bootleggers' cars from those stores, and that they often met the bootleggers in the country for delivery. You remember he also testified in about I think one of the later years there, prior to the formation of this conspiracy under the Court's instructions to you, I am sure that he will make, he testified that Gray -- that Don Gray told Johnson that Little Griff had called him -- Little Griff of course by the evidence is F.A. Griffing, and he had arranged to make a deal with him. That is certainly very indicative there to show that F.A. Griffing the defendant was importing from Don Gray.

Then we have the testimony of Lu Anderson, if you recall she worked for the defendant F.A. Griffing, and she took his telephone calls. She testified that Griff stored whisky there in the garage, and in her house. There is one important thing in her testimony that it could be possibly got by, in the confusion on the many objections made to the Court at that time and that is that she testified she worked for Griff at 5602 East 31st, and that Griff would come in and unload four to six
1526] cases at that address, that is, the address on 31st Street, and that that would be used to fill her calls, and that Pete Miller worked there, and he was the delivery boy -- you remember Pete Miller testified too, he unloaded four to six cases at the address on 31st; she would use that to fill the calls that were made on those phones, then she testified also that Griff would go to 8603 East 16th Street, where she lived; that was her home on East 16th Street; and he would unload the balance of the whisky there. And she testified that that whisky was Martin Edwards and that Martin Edwards, the defendant Martin Edwards paid her for storing that whisky in her home, you see. So that shows very clearly the connection there between Griffing and Martin Edwards -- Griffing was importing from Don Gray, we have the testimony of Johnson too, on that. And bringing it

down and unloading it at this address on 31st Street, four to six cases, for hiw own retail business, and then driving out to the address on 16th Street where Lu Anderson lived and unloading the balance for Martin Edwards. So, whatever their arrangement was, we do not know specifically, but we do know from that fact they were working together and we do know that Griff was importing from Don Gray in Missouri and Oklahoma, and that the bulk of it apparently was going to Martin Edwards and that Griff made frequent trips up there. That has been brought out in the testimony.

Now she also testified that she saw Martin Edwards out
1527] there at the place where she took the telephone calls several times a week, conferring with Griff. She said they would sit around the table -- do you remember that -- they discussed their whisky operations, and money, and things of that nature. Well, obviously they were settling up. Griff would make a trip, he would come in, take his whisky to the place on 31st where Lu Anderson was handling the phone, they would drive the rest out to Martin, meet there to settle up, and make their financial arrangements. It was clear from the evidence that that was the relationship. She testified of course Griff did take trips out of town, and brought back whisky. Well, we know where he was going. You recall that on December 18, -- December 18, 1956, Griff was actually apprehended -- actually stopped by investigator Glen Starrett, and he testified that he saw this '53 Ford, you recall, and a Pontiac, leave Gray's Airport Store, and was driven by Fred A. Griffing and that it contained forty-seven cases of liquor; see, that is near maximum capacity under the testimony we have here -- forty-seven cases of whisky, and that Griff asked to make a telephone call to Tulsa, and that when asked why, he wanted to call Tulsa, he said that he had a good retail business here, down in Tulsa, and didn't want to lose it. Right there his car was seen -- his Ford was seen leaving Gray's store, he was picked up, he had whisky in the car, forty-seven cases; he stated he wanted to call Tulsa, he had a retail business -- I think the evidence is conclusive
1528] on that point and of course as a matter of interest, Mr. Starrett also testified that the Ford was equipped with a Cadillac engine and that it had switches under the dash to cut off the stop and tail lights and he stated that those are customary accessories I suppose you would call them -- he said customary on cars used in the bootleg business. Obviously the

reason for the switch for the lights, in the event you are being trailed by an Alcohol and Tobacco Tax Agent, you can turn off your parking and tail lights, and it makes it more difficult to follow you, and of course you will have your headlights on, and it will as you know from your own knowledge, many times when you turn off your headlights, the tail lights -- the tail lights aren't on, your ignition is on, you stop, and the back lights go on. Well, he switched his off, up in the dash. A Cadillac engine in the Ford shows it was designed to be very speedy and extremely difficult to catch, in this importation business.

Now we also had the testimony of Pete Miller; he admitted when he was on the stand at that time he was working for F.A. Griffing; he testified he worked for him as a pint pitcher, and that he saw Martin Edwards with Griff many times, and then we had the witness Jack Edwards. I am sure you will remember the witness Jack Edwards; obviously from the manner in which he testified he wasn't a willing witness, but even Jack Edwards was forced to testify here in this Court under oath that
1529] when Martin left town in early January, -- now there is an important thing -- the Grand Jury convened January 8th and Martin left town early in January and Jack took over his business, and Jack testified reluctantly -- you recall the difficulty -- he testified reluctantly but he did testify to the truth that he had dealings with Griffing and that Griffing replenished Martin's stache, as he called it -- you remember -- and that he would pay Griffing the money for the whisky. He said a bill would be submitted; he wouldn't go so far as to tell us where the bill came from, but a bill would be submitted and he would pay Griffing for it. He took over Martin's business, and he is a brother of Martin, and of course a brother of Bill's. Now, Mr. Arms introduced Mr. Gray's 52-B's -- we had other evidence there, and I think it is interesting at this point to show you from one of these charts a significant fact --

Mr. Shortridge: If Your Honor please, I don't believe that chart was ever admitted in evidence.

Mr. Crawford: If the Court please, I don't think that's the point; it was testified to as being accurate; there is no need for it to be introduced in evidence.

The Court: You may proceed.

Mr. Shortridge: That was with regard to the other figures.

1530] The Court: You may use it for illustrative purposes in order to aid the jury in following the testimony.

Mr. Crawford: Thank you, Your Honor.

The Court: Make it easier for the jury to understand.

Mr. Crawford: You remember the testimony of Jack Edwards also that people he was selling to, when he took Millers place, they made orders for more than two cases but he wasn't able to deliver but maybe a case or a case and a half. And do you remember the testimony, and I'm sure the Court will instruct you that that is the law, that if an order is made for wholesale amounts, and then delivered in lesser amounts, it is still a wholesale sale. Now, the interesting thing from this chart, showing these cases of liquor purchased by Don Gray from Joplin, Missouri, wholesale liquor dealer, now these are the cases that Gray bought from Joplin, Missouri, wholesale dealers, but notice what happens. We come along here into 1956, -- here's the year 1956, and we come along here into this area when the agreement was made -- you recall Bill Edwards testified that he was buying from Don Gray when he was supplying the conspirators who entered the conspiracy. He also testified that Griffing worked for him for four months and hauled from Don Gray. There is conclusive evidence again on that point. And it is not by coincidence that when Bill Edwards was moved out of the conspiracy and Martin took his place -- who does Griff go to work for? He goes back to work then for Martin. He was hauling most of it
1531] in here for these people all that time, but notice here, March 1957, here we go along, Mr. Gray's business is picking up all the time, -- obviously a part of this conspiracy. Here, over sixteen hundred cases a month. Now, it is has gone up to eighteen -- seventeen, eighteen, nineteen, twenty-seven there in December, or November, there, and then it comes up here to -- to -- to the total here, twenty-two thousand here in 1956. Look at the totals back here before this conspiracy got started, look at these totals back in '53, eleven thousand; '54 twelve thousand; '55, thirteen -- it is going up here at a thousand or more each year, but the conspiracy developed and

starts, and he goes to twenty-two thousand for the year. And notice over here then what happens; January 8, the Grand Jury comes for the session -- people, as the testimony shows, in the bootleg business, took a vacation -- look what happened to Don Gray's business, December, here it is, Christmastime -- let's forget about that, got back into November; there is nineteen hundred -- eighteen hundred -- October, seventeen hundred, the month before. What happens in January? Drops down to one thousand, stays about the same -- the conspiracy ends; indictment returned -- and what is that? Five hundred forty-six cases was all Don Gray sold through that month of March, 1957. That is extremely illustrative of the activities of Don Gray and the importance to him of this conspiracy to import was the bulk of this business, without any ques-
1532] tion. You know, he was so concerned -- Bill Edwards stopped buying from him -- Bill stopped, from the evidence, it is apparent he was out, and apparently that word hadn't reached Don Gray. He comes down and begs Bill Edwards to buy from him again, and of course it was soon thereafter that, where Martin, through Griff, and all, began to buy from Don Gray, he was back in then -- back in with the replacement men.

Now, it is also interesting that from the Government's exhibits introduced into evidence in this particular record, Government Exhibit No. 7, it shows the name of the whisky dealer, and over here on this side, whether he has retail stamps and over here, whether he has wholesale stamps, all the way down. Take for instance, just at random, Dave Massey, they are protecting themselves all the way down on the retail stamps. Wholesale stamp? No. No. There were no persons who testified in this case that they were in the whisky business that had a wholesale stamp during any period covered by this conspiracy. None of the defendants or co-conspirators had a wholesale stamp. And, yet there is voluminous testimony that they were selling in many instances in wholesale amounts. Remember the wholesale amounts for half pints and pints to establish the five wine gallons, which is the dividing point, you recall, between retail and wholesale -- five wine gallons; and the testimony is that for half pints, two cases is over five wine gallons -- actually six wine gallons, but, two cases, just as a guiding point,
1533] of pints, and pints constitutes -- on fifths, it was two cases and one-twelfth; obviously there are twelve fifths to a case, twenty-five one-fifth bottles sold at a time or

ordered at a time constitutes a wholesale transaction, and it is required that a tax be paid under the law of the United States, and none of these people ever did that. It is very apparent from this evidence alone, I am sure the Court will let you take this to the jury room --

Mr. Page: If Your Honor please, I would like to --

The Court: Go ahead and state your objection.

Mr. Page: My objection is that it is not the order that counts; the delivery, I believe that is the interpretation.

The Court: No, it is just the opposite, I think; I am going to instruct the jury in accordance with the statement made by Mr. Crawford. I so advised all of you in the conference in chambers.

You may proceed with the argument.

Mr. Crawford: Thank you. It is very apparent from this exhibit alone, as you go through, and look down, and see the various individuals' retail stamps, no wholesale, all the way down -- all the way down, -- none of them -- none of them that testified in this case, either co-conspirator or defendant, had WLD's, or wholesale stamps. Obviously they knew they didn't have them, they knew they should have them, but they
1534] didn't have them because they would have been required to disclose to the United States Government whom they bought from, and in what amounts and whom they sold to. And they couldn't carry on this illegal business and make that disclosure to the Government -- they couldn't do it, so they all knew, obviously, under Count 2, without any question, that they were conspiring to carry on wholesale business without paying proper tax stamp. Count 2 also covers retail stamps -- John Hood, -- it has been shown he operated this place, 1225 East Admiral, and others, -- both of those -- John Hood in partnership with Henson, -- John Hood never even had a retail stamp all the way through there. These people knew that. They knew they were conspiring together. So the testimony of the importation and the testimony on the tax stamps is conclusive that the people knew that they were conspiring together to carry on the whisky business in -- in violation of the Federal

law as set forth in those two counts. Obviously in a State that doesn't have the law that Oklahoma has with regard to intoxicants there is no problem in having a wholesale stamp and submitting your 52-A's and B's, because you are doing nothing illegal in that state. That is where they violate the Federal law, at least on count 2. And of course we have said that even John Hood didn't have any retail stamp. Now I think possibly the evidence that relates to the formation of this conspiracy which began in -- somewhere around March
1535] of 1956 will be set forth in specific detail again in order that you may have a full understanding of it if you do not already, but you remember the witness Don Downing who testified he was investigator for the City Attorney's Office, had been appointed back in May when the administration took over, I think he said he was appointed on May 8, and that he was down at the Democratic Headquarters there in the Pythian Building and he heard the defendant Jay Jones say he expected to make -- I expect to make all I can this term for I don't expect to be elected again. You remember Don Graham testified he was down there on another occasion and heard Jay say, I didn't make any money before but I will if elected again. The man's intent there is obvious. Of course Mr. Graham also testified he didn't intend for me to find out about that statement, but he came in here and told the truth. That shows the man's intent. Then of course Edmondson and Glenn Brown have testified that they had meetings -- actual meetings with the defendant Jay Jones in June, July, August and September, and that at the first meeting in June they talked about Scoggins' situation over in north Tulsa. Well, you know from this evidence what the Scoggins situation was and you recall also that they said later on it was taken -- Jay said he was going to take care of it; later on it was taken care of, but you know it wasn't taken care of in the manner that Edmondson and Brown thought they were taking care of it. We know from Bill Edwards' testi-
1536] mony that it was taken care of because Livingston threw them out -- he threw Scoggins, Hunter and Stephens out, because collections weren't coming in high enough. That was your Chief of Police that did that. You remember also that Edmondson and Brown decided to have a raid; they were going to raid these gambling places. Two of them were operated by Mr. Brown's testimony by Ray Farley and Dale Hines, both of whom took the stand in this case. They were going to have this

raid, they were not going to tell the City about it; they were going out to really do some good. But the night before, the testimony shows here, Jones apparently got wind of it some way, and he goes over to Edmondson's house, with his wife, and during that conversation why Edmondson tells him about the raid the next night. And then what happens during the next day? Mr. Brown testified, he was called in by a man in his office to listen over the police radio, the City of Tulsa Policemen were calling on these various establishments. We don't know what they said, but it was obvious what was happening. Then that night they got the warrant, they come over, pick up the policemen, without them knowing where they are going; they go out and raid, and there isn't anything there -- there isn't anything there at all. No. success. Mr. Brown testified that subsequent to that raid on the 7th, that their raids were successful on some of the same places. That in itself is very important to show the function of Jay Jones in this conspiracy.

He tipped them off. There isn't any question about it -- 1537] the evidence is clear and convincing on that point.

Well now, we come to the testimony of Bill Edwards. I think Mr. Edwards was on the stand probably longer than anybody else. He also had a very full story to tell. There can't be any question but that Bill Edwards was telling the truth, I don't care what his motive was. Maybe originally he was mad at Martin, maybe he still hates Martin -- I think he so much as said so. But that doesn't mean he wansn't telling he truth. And of course we have corroborated it right down the line, everything. Everything he has said, practically, has been proved by independent testimony. Maybe we need more people with motives such as that. Certainly if it takes that type of thing to bring out the truth as you have seen it laid out here before you in this case, then we need desperately more of such motives. But I want to say one other thing too, and I think you probably noticed it: Bill Edwards could not have come in here and taken that stand and told the truth -- told the true story that he told, completely, and taken the abuse that he took, -- and you saw him take it -- spell out his whole life, all of his convictions and everything else, unless there was more than just a motive in there of hatred. He was on the side of truth, and justice, and he knew it. And I like to think that he loved it, -- that it helped him. But in any event, without any question,

1538] the man told the truth, in detail -- obviously in some places, they began to question him about this meeting, that meeting date -- date, time, and place, -- well, who is going to enter into a conspiracy such as this to violate these laws, engage in graft and corruption, and keep notebooks and records and write up daily work sheets on it? All transfers were made in cash. No receipts were every given. All details were secret, insofar as possible. The main meetings were held out at Charley Hirrlinger's. Who would ever suspect Charley Hirrlinger? License numbers were passed over by Edwards, and they were destroyed, the lists of them. The whole thing depends upon secrecy. And their defense -- you can see what their defense is to this all the way along; except for the big meetings where they didn't think they ever had to worry about anybody, "I will meet with one man -- it was cash; what do the police officers -- who will take a bootleggers word against mine; who will ever believe bootleggers?" So they are plumb free, no matter what happens. But, fortunately, in this case, which is highly unusual, two of the co-conspirators came in and testified. And I suppose twenty some-odd of the bootleggers came in and told you that they had been paying and who they had been paying and they, too, opened up their lives, and took abuse to do it. What did they have to gain by it? Obviously -- obviously most of them are through in the liquor business from here on out -- around here, anyway.

Bill Edwards testified that he had met with Charley Hirr-
1539] linger, in Bill Edwards own home; he said that was six weeks to two months prior to the election. That runs us back into February. He said he had another meeting in his own home with Hirrlinger, McAfee and Edwards, -- you see what happened. McAfee either got the idea, and Jones had it, but we find McAfee and Jones conferring together first, and then they bring in Hirrlinger, and then Hirrlinger brings in Bill Edwards. You see that's the way the testimony went. And it is verified by Hirrlinger all the way down the line. Now sometime in the latter part of February they had a meeting there of course at Bill Edwards home; Hirrlinger was there and McAfee was there; and in one of those meetings the three of them met with Jay Jones and they agreed at that time -- now Livingston wasn't in the deal yet, or Gott, or Peterson. They agreed at that time that Jay Jones would get fifty per cent and that Hirrlinger, McAfee and Bill Edwards would split the other fifty. And you recall that the agreement was, one would handle the whisky

business, Bill Edwards; McAfee would handle the gambling and Hirrlinger the prostitution. Something happened between that meeting and the big meeting out there at Hirrlinger's home on March 30. Because there we find Paul Livingston at that time the Chief of Police for the City of Tulsa conducting the meeting. And in attendance we find Jay Jones, the elected Police and Fire Commissioner present and participating, and Jack Gott, the police officer on the tavern detail also present and
1540] participating. They met out there in Hirrlinger's home after dark. You people were probably reading your papers and carrying on your household joys there with your family; and all that time out north of Tulsa there was your Police Commissioner, your Chief of Police, and another police officer, Jack Gott, sitting down there and conspiring how they were going to profit by engaging in this illegal activity. That is what happened some night when you were in your homes. Lucrative business details. They were pretty sure about it. Jones was going to get forty per cent, Livingston twenty, Gott was going to get twenty; Bulloch was going to get ten, and McAfee, Hirrlinger and Bill Edwards were going to split ten. Well, it is rather obvious at that point what was already starting, what happened at the numerous meetings that Bill Edwards had with Paul Livingston. It is obvious Livingston didn't want Bill in there. He wanted Martin more than he wanted Bill. Already they were starting to move Bill out -- and Hirrlinger too. Hirrlinger had brought in Bill Edwards -- he testified about it. They were close friends, so they were going to move them out at that meeting. That is, Livingston handled the meeting. Bill Edwards, he said, Jay, that wasn't our deal. And Jay turned over there to Paul and there he sits, and he says, Paul is doing the talking. Those are the people that are right here in this courtroom today as defendants. Actually the meeting I just referred to,
1541] and under Bill's testimony, happened in May. That is when this "fix" was had. It was the March 30th meeting where Jones, Hirrlinger, McAfee and Bill Edwards met, that is where Bill Edwards gave Jay Jones $550, and Hirrlinger gave him $150. You remember he said that Jay Jones was late, about an hour or an hour and a half late. You notice all the way through here the detail that the man remembers is remarkable over this period of time. When the conspiracy was operating, one time he met Bill, down at the bowling alley, went around the corner in Bill's car; it was raining that night. The testimony is uncontradicted.

Now at that meeting of March 30th, that is when Jay Jones acted, shook the hands of Bill Edwards, an importer and seller of whisky, in violation of the Federal law, and said, Bill, if I am elected you are going to have control of the whisky business in Tulsa. That is what the man said. The whisky business. They were in the business. They were conspiring. At that meeting there Jay said he needed some money for his radio and television commitment. It was only three or four days before the election. That is how Edwards remembered the date, March 30th was, well, it was three or four days before the election the following Tuesday. You see it figures out as Friday. Some of these dates have been accurately established. And Hirrlinger testified that he was at these meetings and that he was the one that contacted
1542] Jay Jones. Her verifies it down the line. Does Hirrlinger have a motive? What is Hirrlinger's motive? Who is he mad at? He came in here and verified, and expanded upon it in some instances. He wasn't even shaken the slightest on cross-examination, nor was Bill Edwards; but Hirrlinger was just up there a little while, right down the line. The whole story Bill Edwards told, her verified it, and in some points even elaborated on it. He had to come in here and take the abuse that he took; admitted he was going to be a prostitution pick-up -- at least he claims he sold it -- he came in here and told the truth. Where would we be without that type of evidence. What would we be subjected to around here without that type of testimony? We should be thankful we have got it, no matter how we got it, we have got it. It has been testified to and it is obviously true.

Now you remember that the agreement was that the bootleggers would pay $100 a car, with a $200 minimum. And walk-ins were something else. A boy that stuck by that minimum, if you will recall, there was Archie Moore, he was paying on one place, couldn't get the other under it -- that was the business -- cold-blooded business deal, and if you paid on a particular place, you were raided, I don't care how many you had, how <u>may</u> cars you had, the ones you paid on were protected; the ones you didn't, weren't. A vicious deal. Well, of course
1543] Hirrlinger testified he and McAfee and Edwards finally decided it would be better for Hirrlinger to pick up the money from the gamblers, McAfee said he was a gambler himself;

it would be better for someone else to do it. Hirrlinger testified he did, he went down and picked up the money from Hines, who on the stand has admitted gambling, and from McAfee. He said he did, down here at the American Billiards, just around the corner, the testimony is, is Buck's Garage, -- a pay-off there. You remember they had some discussion about the vice squad, who was going to compose it. And Jack and -- kind of wanted Jack Gott to keep either Carter or Bruner on, of the old hands. Discussion came out, verified by Bill Edwards and Hirrlinger -- we saw both Bruner and Carter on the witness stand -- we will get to that in a minute. Do you remember that discussion though? That is very important. Scoggins was going to handle the north Tulsa area, so they were going to let him pick his own men. Obviously he picked the men. Hunter didn't know anything -- Hunter was going along for the ride; he wasn't able to decide where they were going to raid, or not to raid. He talked to Stephens about it; he said, what you don't know won't hurt you. It is obvious why they did that. Stephens was the man, he was going to control the negro raiding squad, and he did, through Scoggins. And that is corroborated. You have the assignments to the vice squad. This chart has been pre-
1544] pared and introduced into evidence and it is shown to accurately represent the assignments. This, in itself is almost conclusive of the entire -- here is Stephens and Hunter, look at that; they never were on there from 1950 -- you remember they didn't have any records past that. Here comes Stephens on there -- when? Well, look at that. That is in the early part there of 1956, stayed on a little bit. There is Hunter, too. They don't stay very long. Stephens never did get tough enough. But they were on there for a while.

And, let's look at somebody else on this chart. Let's see what happened here. We come down here to Johnnie Cole, and what happens out here? Right there? He goes in -- he goes in at the end of June. He was obviously -- he was the third man. Then we have the same thing. Here is Carter there; what happened to him? Look at this right here. There is Leo Jackson -- see, Jackson coming on there, and look at Carter; he drops off at the same time. Johnnie Cole came on the same way, Jim Harp, the same way. That thing itself shows what was going on, and corroborates the testimony -- the testimony of Bill Edwards, Hirrlinger and Dick Carter, and the whole group.

Now of course we had testimony that all these defendants that are in the case were in the liquor business -- we had testimony there from Bill Edwards about Hirrlinger and we had testimony that when Edwards went out and picked up the money from Scoggins, that the first time he went out he
1545] picked it up for a two-week period -- accumulated it; then he picked it up four times after that, for a weekly period. The first time he said he picked it up was June; he picked up three times in June, the first time, accumulated two-weeks period; then he picked up twice in July, and in July he was on his way.

The Clerk: Five minutes, Mr. Crawford.

Mr. Crawford: Now, if the Court please, I understand the defendants are having additional time. I would like to take about fifteen or twenty minutes of my time at this time.

You know, Edwards also testified that he gave Paul Livingston the $300 to have the case dismissed. Paul said it cost him three or four hundred dollars. Edwards said, you put it that way, I will give you three -- that is figuring -- there isn't any difficulty in figuring that out. At meetings with Livingston, one at 15th and Peoria, in Bill's car that is very interesting, just south of 15th and Peoria, he was candid about that, quite extensively. He says, Bill's car was headed south, he was on the west side of the street. He remembers that accurately. Some things he wasn't so accurate about but in general he was surprisingly accurate. Now they also had a meeting out there at Pines Theatre on North Cincinnati; that was a meeting between the defendant Livingston and Bill Edwards. They were talking about Scoggins, Hunter and Stephens. And do
1546] you remember in there too, he remembered that Livingston wanted Fugett on that negro raiding squad instead of Stephens and Hunter, he wanted Fugett on there. Well, I think it shows Mr. Fugett, right here -- when did he come on? Eventually gets on there while Paul Livingston was Chief of Police -- more of corroboration. We also had the meetings there of course -- two meetings, with Edwards and Stephens and Scoggins, all -- all verified by Edwards and corroborated by the testimony and they met on the north side, in Edwards -- on the north side of Stephens' house, in Edwards' car. And Edwards was trying to

get -- trying to get Stephens to go out and raid these people, by George, they weren't paying off. That made the ones that were paying pay all the more. They were having trouble over there. He said one week a guy would be on, one week he wasn't. Alfonso Williams got hit hard in June, so he came in in July for $100 but they had to keep doing that sort of thing, and they were going to pay off over there. It doesn't make any difference whether Stephens raided or not, -- it was part of the conspiracy. He knew what was going on. He took a part in it. Scoggins was the pick-up man. Of course there we had J.D. Pitts come back -- it is up to you, whether you want to believe J.D. When he testified first or the second time. That is in your discretion. I think it is rather obvious when he was telling the truth. One time he said he paid four or five
1547] times, $25 a week; he took it to Scoggins' Grocery Store.

There again that is very clever, a grocery man over there, a rancher from Turley -- contact man, to pick-up money -- aids to secrecy. Well, of course in the latter part of July Bill Edwards met Livingston at 31st and Yale, and Livingston returned the $300, the latter part of July. He said he couldn't get the job done. Edwards was out at that time; they were through helping him; he was out. And of course the defendant Jack Gott, he called Bill Edwards and said, the deal was off, and he said he didn't know why he had just been told to call him. Those were the orders he had received -- to tell Bill to cease operations. And there were numerous other meetings throughout the entire thing. The meeting in June, at Apache and Lewis, by Edwards, McAfee, Hirrlinger and Jay Jones, verified by Hirrlinger and Bill Edwards. One of them said they first met at Pine and Lewis on a parking lot by a grocery store, I believe a Safeway Store, and there was too much light there, they couldn't be seen together. There was Bill Edwards, a known bootlegger, and Johnnie McAfee, a gambler, meeting with the policeman; they had to get out of that light, so they moved over to Apache and Lewis. And there, of course they were dissatisfied with the way the fix was working, why wasn't it working? It was obvious from the testimony it was working; people were paying off, but it hadn't gone to the proportions they undoubtedly expected. Why? Livingston was
1548] dragging his feet. He wanted Edwards out. One time up at Hirrlinger's farm they took a vote, do you remember -- it got that bad, they took a vote. Edwards was the only one that voted to keep Martin out, and after he voted why he said if they

wanted Martin in, he was out. That is what happened. They wanted Martin in and he was out, fortunately, -- got his testimony probably initially because of that. Then of course there was a meeting at Springdale School, that Bill Edwards and Hirrlinger talked about, the boy that was paying off for protection was dissatisfied. You notice after Martin got in, things began to pick up in good shape. There is one point there that is very interesting. Do you think the bootleggers would pay over a many month period, $200, and $600, and $800 a month, as was testified by some of them, if they weren't getting what they were paying for? No. They got what they paid for, they got things straightened out, there isn't any question about that. And of course you remember it got so bad that Bill Edwards finally went to Jay Jones' home, and complained that he had been driven out in November, and Jay's answer to that was, Well, Bill, you haven't been arrested. You see, they didn't leave him alone -- they were worried about him. Obviously they weren't going to be too tough on him; they weren't going to arrest him. But they weren't going to let him back into the deal. Bill said, Well, there is more than one way to skin a cat. They came up with a good
1549] way to skin a cat; they had taken all his customers. You notice when Martin started picking up the money through Bob Massey, Bob testified he didn't want Bill to know about it. That's why Bob Massey came in and started picking up the money, that these people began to switch from buying from Bill Edwards to Martin Edwards. Little Griff's driver, he switches too. Don Gray stays in there, and shoves it down into Oklahoma. Just as clear as a bell. Then of course they had the cut down, out there in Bill Edwards' home -- they had the cut down as they call it, going to divide up the money. Obviously before that time, before they got to picking up money in July, a lot of this money was going to Jay under the testimony we know of $700. They testified they had numerous meetings, but they were really getting organized in June. A lot of that was going to Jay. That's the first time they met, put it in, and it was to be distributed through percentages. Bill Edwards had a conversation with Jack Gott over the telephone. They were trying to decide a place to meet. Bill says, my wife isn't here, come on out here, I will take my car out of the garage, you can drive in, so he did. Here he comes, a police officer, upholding the law, going out to make a cut-down, drives up in the driveway, goes into the garage, shuts the garage door, they go inside, he sits down, and

Hirrlinger comes, and they divide up the money here in the City of Tulsa. Edwards and Hirrlinger got their one-
1550] third of ten per cent, which was two hundred and something; Hirrlinger takes McAfee's two hundred something down, he says, "Here, don't spend it all in one place." That wasn't the way it was supposed to work out originally. They were going to get fifty per cent and split between them. Hirrlinger verified it. That was about enough for him. He testified it was a bad investment all the way through; he put in a lot more than he ever got out. But that's the reason, don't you see, from his own testimony, don't you see how he got into it? He had money for the campaign. Bill Edwards had the ability to run the whisky business. It is apparent from his own testimony that he had been successful in it -- probably wants to be again. It doesn't mean he wasn't telling the truth, but Hirrlinger got into it and donated the money, and Edwards had the ability -- McAfee wanted to operate his gambling business, he got them together, and everything got to work. Jones was going to make a lot of money this time he got in office. Of course Edwards testified he was buying from Don Gray all that time, and Griffing worked for him from the middle of May until the middle of October, '56. At that time he wasn't doing much -- about the middle of October. Now the interesting thing is how all of this is substantiated. I tell you it is absolutely amazing. Bill Edwards testified he was picking up $200 a month from Griffing, did it in June and July. Bill Edwards picked it up personally from Fred Griffing in June and July, did it
1551] at Griffings house. After Bill Edwards goes out, how did they do it? Pete Miller testified he took $200 a month over once he recalls to Bob Massey's house and once to Bob Massey personally. Bob Massey testified he picked up from Griff four or five times, that way, through Miller. Miller only recalled two, but again, when he testified at the time he was working for Griff, but that is tied in -- Bill Edwards picks it up. Then along comes Massey, through Pete Miller. Elmer Oakley, same way; Bill Edwards picked up from Elmer Oakley, $400 for June and July, picked up $200 from another man, and from Oakley. Bill Edwards goes out, Bob Massey comes in and picks up from Elmer Oakley, -- move right on up to the end of it. It is not just Bill Edwards' testimony. On Griff alone you have Bob Massey and Pete Miller verifying it, reluctantly -- obviously -- Lee Johnson -- Bill Edwards picked up from Lee Johnson twice before

the election. Of course they were to get credit for that money if Jones were elected. Bob picked up twice before the election, $100; the second time he had to go back and get more money for Jay. The other time, picked up $200 in June, July picked up $400 to cover four cars. That is very interesting. And, look at Lee Johnson, $200 in June, minimum, maybe one or two cars, the deal was beginning to work a little bit. Johnson is paying for four cars, two expansion; he couldn't afford to pay for them in June, or he added additional
1552] cars -- either way, business was improving. Very profitable -- they were in this whisky business, officers, and all the rest of them, and of course Bill Edwards testified of picking up $200, July, from Tex Rucker, showing Tex Rucker in the liquor business, showing he made one wholesale sale, through these checks, up there.

Mr. Gotcher: That is not enough, to show the wholesale sale by the checks introduced; you ruled them out, that they were retail under the testimony of the witness.

Mr. Crawford: I recall that testimony, Your Honor; he said that on one occasion at least he ordered two cases of pints or half-pints. He was backing down, but he said that.

The Court: I don't remember it, I'm sorry I just don't remember. The jury will depend on your own recollection of the testimony. You may proceed with your argument.

Mr. Crawford: Then you remember also Bill Curlee was paying Two hundred in June and July, Bob Massey came along, Bill was paying it to Bill Edwards and Bob Massey comes along, and he picks it up. Edwards remembers the transfers made at a cafe, 28th and Harvard. Archie Moore, same way -- what happened to Archie Moore? There comes Peterson into it. Archie Moore is paying off to Bill Edwards. Peterson apparently gets the same relationship with Moore; he starts picking up with Moore. Look how it is coming along. Archie Moore -- he has a motive; we nned more motive like that. The man said, he already
1553] paid for the month of December and he accepted Christ and he didn't even go back to his establishment, and he has got a motive. And we need more motives like that, just lucky we happened to get a couple of people like that to tell this

to you. And he verifies all the way down the line; he even had conversation with the Chief of Police about getting 407 South Denver in on the deal. All of them conspire and know of this whisky business. Obviously if they were paying off they would do more business, make more money all the way down the line. Of course, Ben Bly, same thing. There is a strange thing about Bill Edwards picking up from Ben Bly, when he was in it, then when he gets out of it, who picks up from Ben? Martin. Martin picks up from Ben, direct, -- apparently figured he was home safe with Ben. Bill Edwards, he is picking up from all of them; afterwards Massey picked up from some, Peters picking up from one, and Martin himself picking up from one. All this money paid in cash; no receipts were given -- all that came out time after time. He also got the license tag numbers on the cars that were covered. Edwards met with Gott, four or five times a week out in Utica Square, and one other place, to give them the license numbers. Where were the license numbers going? Cole, Peterson and Harp. There is no middle between two ends of a piece of string. The policy of the Police Department was that only the raiding squad would raid; if anybody else did, they got the jail, or 1554] went to the dog pound, or someplace like that. They went to the raiding squad, Cole, Jackson and Harp. That is the strongest circumstantial evidence that we have had. The thing worked. It couldn't have worked -- possibly have worked without their assistance and their knowledge and their cooperation. They were in it as deeply as any one else. Of course we had some other people involved in the thing; James Clark Warren, he paid to Bill Edwards $100 one month, 21 South Main. That typed the thing all the way down the line -- that was essentially the testimony of Bill Edwards. And other evidence substantiates it, corroborates it, and it shows without any question the entire period that these defendants who were all involved in it, all participated in it, all wilfully knew it -- knew that it was all about, profited by it in one way or another -- remember Dick Carter's testimony; he was going -- what he was going to get out of it, the raiding squad people, he was going to have time off -- kind of a free ride. And the man was propositioned by Gott, and right before why Jackson who was then on the raiding squad -- just had gotten on it, came in and asked if he had been propositioned. He said, No, he didn't know what he was talking about. Gott comes in and propositions him, go out and take a

ride; you know why that man remembers that ride so well, what streets he went on, what corners he turned, because of what he was hearing; undoubtedly he was astounded by it. He said,
no deal, but they picked the wrong man when they talked
1555] to Dick Carter; they picked the wrong man; on that trip
they saw at least two people that should have been arrested for violation. "Leave those alone," -- one of them was Pete Miller. All the way down the line this evidence is corroborated, substantiated, it is clear, convincing, and let's be thankful that we have got it.

* * * * *

Mr. Malloy: If Your Honor please, Mrs. Davis, and Gentlemen of the Jury, we have been sitting over here in kind of a group, and I would like to try at this time to sort of identify myself and my individual clients, analyze if I can for you, the Government's testimony, if any exists as with respect to my individual clients.

I will tell you in the first place, my name is Pat Malloy; I represent John Hood, -- will you please stand -- Lee Johnson, Martin Edwards, and Fred Griffing.

You may sit down.

The Government, Mrs. Davis, and Gentleman of the Jury, is
1556] asking you to send to the penitentiary these four men that
I have introduced to you at this moment upon testimony pitifully weak in quantity and totally lacking in quality. Let's analyze each one -- let's take the testimony relative to John Hood. There isn't one thread of testimony with respect to John Hood on importation. There isn't one thread of evidence with respect to John Hood on wholesaling. The only evidence relative to John Hood being in the whisky business whatsoever, is vague, inconclusive testimony of one Chalma Weakley. You saw her and you heard her; it had been admitted by Henson that John Hood is a renter of property. There hasn't been one bit of evidence that John Hood was ever arrested at the place where Chalma Weakley says she sold whisky; no evidence that John Hood was

ever seen at that place. Are we to convict him upon that kind of testimony, that he was in the whisky business? Mr. Crawford tells you that Mr. Hirrlinger, who is a renter of property, the Drake Hotel, which is a walk-in, is a rancher; he calls Mr. Hirrlinger a rancher; on the same testimony he tells you John Hood is a bootlegger. You have to find, Mrs. Davis, and Gentlemen of the Jury, beyond a reasonable doubt; there can't be assumptions; you can't guess people into the penitentiary; there has got to be proof. There is no proof whatsoever with respect to John Hood being in the whisky business at all, or sufficient in my opinion for you to render any kind of a verdict against him.

1557] Martin Edwards -- do you know that in this case there hasn't been one thread of evidence that Martin Edwards paid a penny to a single soul -- not one. There have only been two or three people that testified about Martin, he is in the whisky business -- certainly. He isn't be tried for being in the whisky business. He is an owner and holder of a retail stamp. What is the evidence with respect to importation? Is there any direct evidence in this record that shows that Martin Edwards imported any whisky into this State? Is there any evidence sufficient for conviction that he ever made a wholesale sale. The only testimony with respect to wholesale, was of the Masseys. They said that they ordered three separate orders for three separate operations or businesses and remember this: Bob Massey said that Martin Edwards in his sales and business with him, that Martin Edwards wouldn't sell him over two cases. Now, Martin Edwards might violate some State laws with respect to whisky business but Martin Edwards is no dope; and he isn't selling wholesale amounts of whisky, if he doesn't have a wholesale stamp.

Let's take Lee Johnson; there isn't one thread of evidence in this record that Lee Johnson imported any whisky into the State of Oklahoma, from any State. There isn't one thread of competent evidence that Lee Johnson ever wholesaled any whisky. The only testimony relative to wholesale was some kind of a switch of cars -- you remember that, in which the witness for the Government said there wasn't any money transferred.
1558] They said there was certain -- ten cases I think, in a car, they got in a car, they drove down, they transferred the cars -- is that sufficient evidence to send a man to the

penitentiary on? Is that wholesale? Retail, certainly. Lee Johnson is in the whisky business; he paid a stamp for it. He isn't charged in this Court -- he is charged in the Court for a crime for Federal violations; he isn't violating the Federal law.

Little Griff; what is the testimony -- direct testimony with respect to Griffing on importation and who is it by? There isn't any testimony that Griffing himself ever transported any whisky into the State of Oklahoma. There is testimony by Lulu Anderson, an associate of that Cleo Epps, and Bill Edwards, that Griffing went someplace and came back someplace; is that sufficient evidence to send a man to the penitentiary? I submit it is not. He is in the retail business certainly, he was in the retail business. We are not coming in here and saying this man isn't selling whisky; that is not the charge -- that is not the charge. He is charged with violation of Federal law with respect to certain activities and importation, as well as sales, and in a conspiracy. A conspiracy is the thing in this case. Is it so clear as Mr. Crawford would have you believe -- is this evidence so clear as to a conspiracy? He tells you it is. But he told you here on the first day of this trial
that this conspiracy began in 1948, and that's the way
1559] that indictment reads. After weeks and weeks of study
and myriad numbers of witnesses, Hayden Crawford, the United States District Attorney drew up an indictment, and he was convinced that a conspiracy existed from 1948.

Mr. Crawford: If the Court please, I think he is going too far.

The Court: No, that's all right.

Mr. Malloy: He told you, Mrs. Davis, and Ladies and Gentlemen of the Jury, not only that but he told you that the master mind of that conspiracy was Nolen Bulloch. He illustrated by colorful language, and reminded you of a street car named Desire. You remember it, Mr. Cook, Mr. Purkey, Mrs. Davis, Mr. Johnson, Mr. Ellis, Mr. Grace -- Mr. Dodd, Mr. Ferguson,-- you all remember it. He told you in that opening argument, the Government will prove beyond a reasonable doubt that this conspiracy is likened unto a street car named Desire -- didn't he?

He told you the conductor of that street car was Nolen Bulloch. That people got on the street car and they got off the street car and some came and some went. But Bullock was the conductor and he stayed on from the beginning until the end. Yesterday, after one hundred and eighteen witnesses had appeared in this courtroom, His Honor, Judge Savage, ruled as a matter of law that the Government had not even proven a prima facie case against the conductor of that street car named Desire.

1560] Mrs. Davis, and Gentlemen of the Jury, these men are not being tried in this Federal Court for violating the State laws relative to whisky. The gravamen of this action is a conspiracy, and to not let the Government get you or I off of the ball, they must prove conclusively to your satisfaction that a conspiracy existed. How do they propose to prove it?

There were two chief antagonists at the beginning of this trial, and at the conclusion thereof; one was Nolen Bulloch, the writer of truth, and Bill Edwards, the despiser thereof, and admitted perjurer, before the Court of Inquiry of 1953.

The Court: No, it is not a correct statement.

Mr. Malloy: He testified, if Your Honor please, --

The Court: No, he didn't admit testifying falsely; testimony was he didn't testify --

Mr. Malloy: It is admitted --

The Court: The transcript is in the record.

Mr. Malloy: All right, look at the transcript in the record. At any rate, you saw Bill Edwards from that stand, you heard him testify; you saw his arrogance, you saw a man so full of venom and bitterness that he testified relative to his entire family relationship. Mr. Crawford says it was terrible for the man to be subjected to that, but to Bill Edwards it was amusing. It was amusing to say and to discuss his father being sick in the hospital near death. It was amusing to him to talk about his brother Martin and the question in his mind, whether it wouldn't be advisable to send someone from Kansas City to have him killed.

1561] It was amusing to discuss your own blood brother and your great hatred for him and your desire to send him to the penitentiary -- and to send Nolen Bulloch. For what? For writing stories as he admitted to you, ridiculing him, holding him up to scorn -- he had told the people all about his record. Is that sufficient evidence -- can we believe a man like that? Can we believe a man like that? Mr. Crawford would have you believe that he is a man, now all of a sudden he has come into his noble deed -- I submit to you, Mrs. Davis, and Gentlemen of the Jury, that a conspiracy existed -- yes, it did -- that conspiracy which it is not beholden upon us to prove beyond a reasonable doubt, but it is the Government's responsibility to prove our conspiracy. I submit a conspiracy existed in the minds of Bill Edwards and his gang to do four things: To eliminate once and for all the thorn in their side, Mr. Nolen Bulloch, and the Tulsa Tribune. Secondly, to eliminate once and for all as the political leader of the -- and the police commissioner, a man with whom he couldn't deal, and to swamp him, and to eliminate him -- eliminate him -- eliminate him. Then, Jones, he then wishes by the same token to rub it all together -- also eliminate -- put in the penitentiary his own blood brother whom he hates and despises and admits under oath he does. And, finally, in the bargain, to eliminate his
1562] chief competitors. Is that the type of testimony there, from the lips of a man of that nature that we are going to send to the penitentiary -- a man like Jay Jones, and Livingston, men who have come up in this community, and have been respected all their lives? It is almost criminal in my mind, this indictment, upon the word of a man like Bill Edwards. You talk about behavior at home! If Bill Edwards gets away with this, if he gets away with this there won't be a reporter who has been protected by His Honor at this point; that reporter, but the reporters will be hesitant to write about people like that; police officers like Jones and Livingston and Cole and Harp are going to be hesitant to make arrests of a man like that. What are you going to do? Do you not see the viciousness and the insidious scheme of this man to take over and run this city? It is a sample, Mr. Cook, of the big lie theory; the bigger the lie you tell the better chance you have to get somebody to believe it. If Bill Edwards had told the story simply about a few bootleggers it might possibly be worthy of some belief -- or one or two, maybe a few little police officers

connected with it, a little isolated deal -- sure, we might believe that. But that is not in his mind -- I am not a psychiatrist, Mr. Gray, -- I am not a psychiatrist, but I say to you that that man's testimony bears serious analysis, and

I say to you in line with the big lie, the Hitlerian
1563] approach, that is what we have here to get beyond the
little man on the beat, to get beyond it to the -- to the very chief, to the commissioner, -- I can just see it in his mind -- and Bulloch and the Tribune, -- I am bigger than them all -- me, Bill Edwards; I will control the city. That is something I see working. Think about it. You have read about it -- you know it. Mrs. Davis, and Gentlemen of the Jury, again let me say to you, we are not in a play; we can't assume each and every defendant in this lawsuit is entitled to the cloak of innocence from the very moment they walk into this courtroom until you finish your deliberations -- His Honor, Judge Savage has struck a blow against the scheme of Bill Edwards by ruling as a matter of law that the Government made no case whatsoever against Nolen Bulloch. Mrs. Davis, and you gentlemen of the jury, can complete that and eliminate Bill Edwards and his ilk forever, by a speedy verdict of acquittal. Mrs. Davis, and Gentlemen of the Jury, I want you first to consider here, and as you go back into your jury room to have in mind, if you please, this vacant chair of Nolen Bulloch. The arch criminal, the master mind, the conductor of that street car -- if there is no conductor there were no passengers; if there was no master mind there was nothing thereafter to conduct in the way of a conspiracy.

You have been kind; you have been considerate. I want to say to you also that it is certainly not my normal characteristic to speak as I am speaking to you, but I say to
1564] you with all the sincerity I have at my command that
there is in my opinion a great duty here that you have in your hands to stop once and for all an attempt to slur and smear, on the part of people of the mind and character of Bill Edwards.

Ladies and Gentlemen, -- Mrs. Davis, and Gentlemen of the Jury, that's all I have to say to you at this time. You will hear from other members of our side; you will ultimately hear again from Mr. Crawford, or a member of his staff.

I again thank you for your consideration. Please consider seriously your solemn oath, and your individual duties. May I say, Mr. Ellis, Mr. Johnson, Mr. Purkey, your individual duties, Mr. Dodd -- vote according to your conscience, and vote according to what you believe to be right and what you do we will be well satisfied with.

Thank you.

Mr. Gotcher: If Your Honor please, Ladies and Gentlemen of the Jury: On account of this being such a massive trial -- so much misunderstanding, I just wanted to tell you that I am Paul Gotcher, from Muskogee, Oklahoma; that I represent Elmer Oakley and Don Rucker in this case. There are so many defendants and so many lawyers that I doubt whether you can
1565] keep up with all of them and that's the reason I am introducing myself and my clients.

Now then, to understand this properly, I must speak a few moments with you on behalf of my clients and to do that we must get the issues before us and understand what the Government has got to prove, to prove us guilty.

Now the Court has already advised you of the contents of the indictment. Mr. Crawford has. But again I want to bring it to your mind so that it will be indelibly imprinted there, so that when you go to the jury room, and discuss the innocence or guilt of Elmer Oakley and Tex Rucker -- that is his nickname and that is what we are going to call him, -- Tex -- he is charged as Don, -- but I want you to be able to distinguish between the other defendants and those two, when you consider their innocence or guilt.

We are charged now in this Federal Court -- now, Federal Court, with conspiracy to import liquor, tax paid liquor into the State of Oklahoma. In the second count we are charged with carrying on the business of a retail and wholesale liquor business, and wilfully failing to pay the tax on the same. I think when we put the chaff away and look at that indictment under the proof of the Government we can dispose of the charge of

retail liquor business without a stamp. Because the Government under Exhibit 7 has shown you that Elmer Oakley and Tex
1566] Rucker, each has owned a stamp during the charging of this conspiracy, so we can just eliminate that at this time, and then we go down -- then we go back to the two other charges.

Now let's see what evidence they have gainst first Tex Rucker as to whether or not he has imported a single pint of whisky into the State of Oklahoma or has sold or participated in the sale of five wine gallons or more at one time, during the charge of this conspiracy. Who tells us that we are engaged in it? Why that is the star witness, the brave witness that our United States Attorney talks about, Bill Edwards.

Now if the Government is to have you believe that man, let's review his character a little bit. Let's review his own admissions here from the witness stand.

He doesn't even have reverence for his dead mother who lies in her casket; it comes from his own lips. Are we to believe a man of that type? What manner of man is he that he can stigmatize his own mother -- you heard the rest of it up there -- send his own brother to the penitentiary. He hates everybody -- wants to send the Police Commissioner to the penitentiary. Further he wants to help the Government out and he tells us he is a good man and should be listened to, but he won't even pay the Government his own tax on the whisky he sold here in the town of Tulsa. Would you let that man go into your home, and you leave him there alone, and when you go back expect
1567] all your property to be there? Or would you loan him money -- would you loan that man money without security or collateral and expect to get it back? I think you, gentlemen, and, Mrs. Davis, understand that testimony.

Now the testimony and the only speck of testimony against Tex Rucker was the man -- was that man I have just described to you. He said he picked up some money in July from him. Now that is the only scintilla of evidence that the Government has brought, because it is admitted Tex Rucker has a retail liquor dealer stamp. Now I want to correct for the jurors -- or call the attention to some of the argument that Mr. Crawford made about Tex Rucker. He said that Mr. McCarty came on the stand

here and testified that he made a wholesale sale to him. Mrs. Davis, and, Gentlemen, I challenge the record. That did not happan, and Mr. McCarty said he never bought but one case of pints off of Tex Rucker in the entire time he ever dealt with him. I say to you, it is a misstatement of the record when Mr. Crawford said so, and I want you to remember what the evidence was. Now then, in the other testimony -- I mean, not the other testimony but the testimony that connects Elmer Oakley with this thing is again your Bill Edwards. Can we believe him?

I want you, Mrs. Davis, and you, Gnetlemen, when you go to your jury room, search your conscience about the advisability of believing Bill Edwards. And I think when you study it seriously, when you think about it seriously, under
1568] the Court's instructions you will ignore his testimony completely and throw it to the wall and say, we won't believe such a man or such a character.

Now we have the man again appearing -- picking up, as he calls it, from Elmer Oakley. I want the same argument that I have talked to you about as to Tex Rucker to apply to Elmer Oakley. Then we come to Bob Massey. I just don't know about Bob. He is sort of one of those chameleons he turns one way, then turns another color, running in a circle; he has collected money here; he has collected money there. And now it is only his single statement, himself, his own self-serving statement that he delivered that money to Martin Edwards. Now I believe he said he owns a fine home here in south Tulsa. He has been in the business all along. -- Do you reckon he gave Martin Edwards that money or do you reckon he had him a little racket in with these other retail liquor dealers, and said, Here's a way I can do some chiseling -- I can do some chiseling. Has the Government ever had the money, except the self-serving statement of Bob Massey, into Martin Edwards hands? Has it gone up, as they have pitched the case, to Jay Jones, the Commissioner? No, it stops with an admitted bootlegger here in Tulsa, who goes around and collects money, and if he is that kind of a man he will put it in his hip pocket and steal it, and I charge you, Ladies and Gentlemen, that is what I
1569] think Bob Massey did. And under the Government's case, they can't say to the contrary.

Now whether or not these two gentlemen that I represent are engaged in a conspiracy, let's see: Now we admit that we sold whisky and, we admit that. But for us to be convicted of a conspiracy they must have proved to your satisfaction beyond a reasonable doubt that one or the other of them or both of them joined in to this unlawful agreement with the men Edwards talks about, and that they did something in furtherance of that agreement. Have you heard of anybody saying one word that Tex Rucker ever agreed to sell whisky or import it. Have you ever heard any one say that Elmer Oakley did it?

Now then I know what the answer is going to be. You listen to Mr. Crawford when he gets up here to close, and he is going to say, No, we didn't hear anybody testify to that, but I will tell you what the law is, and His Honor will tell you, that he can be convicted, or they can, by circumstantial evidence, and, that is, having a fact here, and a fact here, and an inference, and drawing a conclusion from those two facts, that they have proven. That is true -- that is the law. But, first you must have the facts that you can draw the inference from. And they are entirely out of this case. Nobody has ever made a factual statement or two factual statements that an inference can be drawn from those facts and say that circumstantially, 1570] that Tex Rucker and Elmer Oakley stand guilty of a conspiracy to defraud the United States -- it can't be done and I challenge the young man here to give you those facts that you can draw any sort of a legitimate conclusion, to sustain a conviction on circumstantial evidence.

Now then there is one other character in this case; that is this Charley Hirrlinger who is always hanging around at the right spot at the right time, that he can come in here and turn State's evidence -- I don't know what the force and pressure was put on him to turn State's evidence, but that's what he was up to there -- he wasn't a defendant -- a co-conspirator, though, but he is not liable for the pains and penalties of the law for his own act. But somewhere along the line he decided to turn State's evidence and come up here and talk. Now then he sat up there, you remember, particularly, gentlemen, -- had a little heart attack, he said, -- was a rancher up here at Turley but, as my co-counsel reminded you of, he is an owner and operator of the Drake Hotel who has been enjoined from selling whisky by the

Supreme Court of the State of Oklahoma. Now I wonder why he came up and turned tale -- and turned State's evidence; is he a man you are going to believe, that he and Bill Edwards formed a conspiracy. Then they kind of tied in Jay Jones, and the rest of them? It just doesn't ring true. Now what I think happened is this: Bill Edwards in his crazy, venal, vicious way, decided he was going to make some money out of this administration.
1571] And he started out with this Hirrlinger, who is quite a character around this town, some of you gentlemen know him -- I don't think Mrs. Davis would know him, but he decided he was going to make some money. And he was going to use his political influence. This $700, now remember, that Bill Edwards gave to -- gave to Jay Jones, $700 now, to have the liquor concessions of the City of Tulsa, and Bill Edwards didn't testify to one iota of more money that he gave. Now is it reasonable that Jay Jones -- that Jay Jones, the elected Police Commissioner, would sell out to the notorious character of Bill Edwards for the small paltry sum of $700? It is ridiculous -- absurd. So he is going to peddle his political influence -- Bill Edwards is to -- he wants to get Hirrlinger in, maybe he can get a little money out of him. So, he gives the $700, and from then on he is going around and telling the boys, Now, boys, I am in; you pay me, and I can take care of Jay Jones, because I helped him win the election. Again, that is what happened. And then finally, when they found out what Bill Edwards was doing, when Jay Jones found out, he was selling him down the river, that is when he put a quietus on him, and that is when Bill Edwards got mad and started making this case, in July 1956, -- boiling over -- boiling over because he couldn't run the whisky business. And together with the Tulsa World came over here to the Federal Building, and got Hayden Crawford to start this, so that
1572] he could put the other boys out of business as he said last Wednesday night, if we don't convict all of these defendants we can't be in the whisky business. But if we can get the United States Government to come in here and convict these people, we can go back into business. Now that is what has been happening here in this town, and here we are making a brave attempt to put Bill Edwards back in the whisky business.

Now, one other thing and I want to close because I have been here long enough -- I want to talk just a little bit about this street car Desire just a moment. I have been in quite a

few lawsuits and I have been on this side of the table too, for the Government. And I know -- have personal knowledge of the power of the United States Government. You can call two -- you can call fifty agents by just getting on the telephone; and the regional office will send them in here by plane, by train, by car, --

The Court: Confine yourself to the evidence, Mr. Gotcher, -- you are not sworn to testify.

Mr. Gotcher: No, sir, but there is evidence in this case that there was forty Alcohol Tax Units --

The Court: You may talk about the evidence, but not personal information that you have as a result of your experience.

Mr. Gotcher: Oh, well, I beg your pardon, Your Honor.

1573] Well, you will remember the evidence testified to by Mr. Bill Gibson; he said that there was a raid, what he called a simultaneous raid out here in colored town, forty Alcohol Tax Unit Agents, took place -- I mean, took part in that raid. So, you can see from that situation the power of the Government. They can investigate any matter they want to and find out if there is any evidence within reach of -- in the continent of the United States by day or by night. And this has been going on, you know, from reading the papers, since January of this year. And, as Mr. Malloy told you, myriads of witnesses -- legions of witnesses have attended, and they came out with this indictment. And their Nolen Bulloch was one of the main defendants -- in fact I -- in my opinion he was the main defendant. And then when our United States Attorney came in here and gave you that dramatic and fantastic story of that track and conspiracy from 1948 down to February 21, 1951, I was wondering if he wasn't at that time trying to prejudice you, Mrs. Davis, and the rest of you, at that time. But, the vacant chair, as you have been told, is sitting over there; the vacant chair of Cliff Wells, that was responsible for those ten or twelve women appearing here, scarlet women that this man brought here to establish that part -- Cliff Wells is gone from the case too, and can you imagine the work and the effort that this man and his agents did to find those women, some from Houston, New Orleans, and all

over the country.

1574] Mr. Gotcher: Thank you. And then the other one, that last one on the totem pole, Neal Williams, he put him in there, for what reason I don't know, but the -- but the whole thing -- I mean his case, they mentioned him three times in one hundred and twenty-one witnesses. So I wonder, just make a comparison, Mrs. Davis, and the rest of you, Gentlemen, make a comparison as to his ability to evaluate as to Nolen Bulloch, Cliff Wells, and Neal Williams, and compare his judgment with the rest of the defendants, and especially Elmer Oakley and Tex Rucker. And when you go to the jury room, consider those matters, and I think you will return a verdict of not guilty.

Thank you.

Mr. Shortridge: Mrs. Davis, and Gentlemen of the Jury, I represent Don Gray, the man sitting over there at the end of the table that now has glasses on, an older man. I represent a man that is charged on two charges with transportation into the State of Oklahoma, and defrauding the Government of tax money. And if -- and to bolster up those charges Mr. Crawford talked about the amount of whisky he sold. We live in Southwest Missouri. I am a stranger to you folks. Talked about the amount of whisky he sold, but I don't know how much the other dealers sell, and, Mr. Starrett told you on the stand that on the
1575] 52-A and 52-B reports, from the wholesalers up there, every one -- every drop they sell must be accounted for, to every store -- out of the regular wholesale house to every store; they could have gotten that. They didn't bring those figures. They weren't interested about that. And now I think there is -- I might say that this has been a long trial and I am going to do my best to help shorten it. We have agreed to a limitation of time and we are going to try to go through with it and then it will all be up to you folks under our system of jurisprudence. It will all be up to you to say, guilty, or not guilty, and what a lawyer says in the case is not evidence. But there are -- and I can't hope to make any resume of all the evidence in this case in the time that I have agreed to take, in the interest of speeding up this case, but I can say this: I can point out certain

things that I wish you folks would think about and that I know that you will consider when you go to your jury room and where only the twelve of you decide the fate of these men.

First, they talked about unsuccessful raids. Now Mr. William J. Gibson, a special investigator for the Alcohol Tax Unit, testified that on December 13, 1956, forty-two Alcohol Tax Unit Officers raided twenty establishments here in Tulsa. He had a bunch of files in his hand. But he only mentioned -- he mentioned no defendant -- and he mentioned only one alleged co-conspirator, one Frank Fletcher, who has not been
1576] otherwise identified except perhaps -- well, there was another witness or two talked about him, but, we will get on. Now Mr. Jim Rogers, the gentleman sitting here, is in charge of this Tulsa office. I can't believe that Mr. Jim Rogers would be part of any pay-off; I can't believe that he would make any blind raids, where he had no idea of what was going on. So I don't know whether there were -- was any success to those raids. Neither do I believe that these other officers would wilfully make unsuccessful raids, or fail to make raids. It was only on December 13, that the Alcohol Tax Unit stepped in and started these raids. Where are the other people who were raided? If this business was to control, or this conspiracy that they started -- they are talking about was to control the whisky business in Tulsa, why aren't all other whisky dealers parties. Now, if Mr. Bill Edwards is to be believed -- and there is a scrap of truth to his testimony, and there is a scrap of truth to Mr. Hirrlinger's testimony, and those scraps are these: That Bill, who lives in a better house than most folks I know, who paid $40,000 for a home, paid it out in cash -- just laid it out on the table, didn't even have to write a check, didn't have to go to any finance office, -- didn't have to pay it on payments; a successful man, a brazen man, who sat here and told you, now there was a conspiracy, but that conspiracy was for Bill Edwards and Charley Hirrlinger, to take over and get some money for themselves. When they found they couldn't take over, out of vengeance they
1577] brought the names of others in it, for their revenge, and there is no jury in these United States -- the jury system is something that all of our ancestors fought, bled and died for -- that is going to let one man's vengeance, or two men's spite or revenge, lead them to a verdict against men who were not in any conspiracy. For instance, if Bill Edwards needed a

liquor conspiracy, -- why did he need it -- he was already a most successful bootlegger in Tulsa -- independently wealthy -- he was already hauling whisky. Why did he need any arrangement? He wanted that arrangement for one purpose, Mrs. Davis, and Gentlemen, and one purpose only; and Charley Hirrlinger wanted it for one purpose and one purpose only, and that was to line their own pockets out of some pretended influence they may have claimed but did not have. Now they wanted more money; they didn't get it, so they said, we will get even.

When we speak of them wanting more money, they didn't get it, -- Bill Edwards told about all of these contributions, and then told of the cut-up that he got, and it didn't figure out. You folks will remember the figures; it didn't figure out anything like the arrangement that he related. Now he was the witness who could glibly give you dates and times, places, place names, who were there -- at every -- every instance except the instances he had not coached himself on. Now he
1578] had coached himself -- he had made his story good -- he had gone to the sherfff, and Mr. Rogers was there -- he had gone to the county attorney, -- he had gone to Mr. Crawford. Well, -- and he went to Mr. Crawford last. And he -- before that he had been to Mr. Steen. Now each time he related some set of facts, Ladies and Gentlemen, -- each time he related them, and no doubt he was questioned. Those questions would give him another idea, so he kept improving his story. He improved it until probably he believes it. But I don't believe that you folks will believe it. That is going to be the turning point in this case.

Now, Bill Edwards, according to Ben Bly, said, if I am -- well, first Bill Edwards said, I am temporarily out of the whisky business -- temporarily. In other words, whether he meant when he took the stand he was out, and then he would be back in that afternoon or the next day or a year from now, I don't know. Temporarily is a relative term. But he said, just temporarily out. Does he mean by that that he is out of the whisky business until his hopes are fulfilled, that his story will be believed? That's what I think he meant. He was asked if he was promised immunity. Of course under the law Mr. Crawford can't promise him immunity and the Court will so advise you if necessary. Only the Attorney General of the United States can promise

1579] immunity. But Bill's answer was interesting -- he said, Yes, -- No. Just like that. I think that Bill Edwards believes that once this case is over, if there is a conviction of any one defendant, he can brag that, I can do anything I want -- you are going to buy your whisky from me, or nobody else.

Now, it may be -- of course I am from out of the State -- Mr. Gray is from out of the State; I live in Joplin; Mr. Gray lives up at the little town of Asbury, which is just south of Opolis, which is in Kansas, right on the Missouri-Kansas line -- I am not personally acquainted with you. It may be that some of you have personal beliefs against whisky. If so, you are entitled to those beliefs, and no one under our system of Government has any right to say what you shall believe or I shall believe, and nobody is ever going to tell us. But -- or, how we should feel on a problem. But the Court asked you when you were being selected as jurors if you thought that you had any belief concerning the use of intoxicating liquor that would embarrass you, or in any way influence you in this trial, and you all answered in the negative.

Now they talk about retail and wholesale sales. Mr. Gotcher has outlined something, called it to your attention in order to avoid repetition I am not going back over that. The only evidence of wholesale sales aside from that mentioned by Mr. Gotcher, is big, bad, Bill Edwards, or, sweet William, as he would probably prefer to call himself. He said, I am a wholesaler -- I am a wholesaler. I don't know whether he
1580] is a wholesaler or not. That is just his bold statement.

Now, the charge against Mr. Gray, Count 1 is with regard to conspiring to transport whisky into Oklahoma. It is peculiar that Mr. Edwards and Mr. Moore and some of the other witnesses did not tell you that when I talked to Mr. Gray in Missouri I told him that I was going to take this whisky down into Oklahoma and sell it. They didn't say that. And Mr. Gaulding, the Government Attorney for the Internal Revenue Service, he said that a wholesale license meant you could deliver anywhere, so far as the tax went. But of course as to transportation -- I wonder why these Government witnesses didn't say, now I'm going to take this -- I told Mr. Gray -- or, Don, as I call him; I have known him for years, -- I am going to take this whisky down into Oklahoma -- I wonder why they didn't say that. People

have a right to come to Missouri from Oklahoma, and you folks are welcome there, and I hope I will always be felt welcome, and buy whisky, and Mr. Johnson, who was discharged by Gray in 1953, he said he saw Oklahoma cars loaded, but he wasn't specific as to any amounts. A person has a right to come up there and buy whisky with an Oklahoma tag -- they have a right to do that.

Now, of course Mr. Crawford is handicapped by the nature of this case. The Government has to take its witnesses where it finds them. The jury doesn't have to believe those witnesses.

Any -- and I think that everybody should do their best.
1581] But I couldn't help feeling sorry for the shame and humiliation that those women had to go through. They made a mistake -- morally perhaps they are to be condemned -- but I felt sorry when they were held up to public humiliation, especially when it had nothing in the world to do with this case and the Court so advised you.

Mr. Shortridge: Ladies and Gentlemen, thank you for your time, thank you for your consideration. When you go to your jury room I know that you will consider the facts and do what your own conscience dictates and I know that you won't put Bill Edwards in charge of Tulsa.

Thank you.

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1586] Mr. Page: Mrs. Davis, and Gentlemen of the Jury: In the first place my client is Mr. McAfee, this man, and he has been referred to all during the course of this trial as a gambler, and running a gambling establishment in downtown Tulsa.

The first thing that I want to call to you jurors attention is this: Why was Johnnie McAfee's name brought into this conspiracy? To my way of thinking and believing it was
1587] this: For two primary reasons: One, they wanted a "Patsy"; Hirrlinger and Bill Edwards didn't want to say that they conspired among themselves; they wanted someone else

to have originated this idea. So Mr. Hirrlinger said. Two, in the indictment, that the Government has brought before you, it charges a conspiracy to violate the prostitution -- a rake-off and pay-off in that, and it says, a pay-off for gambling operations, and then whisky. So they wanted someone that they could classify, and they classified as a gambler, as a support in this story.

But let me tell you where it has failed, and failed completely. In the first instance, let's take Charley Hirrlinger -- Charley Hirrlinger, the slot machine operator, a marble board man, that in the Drake Hotel -- it is enjoined by the District Court of Tulsa County from selling whisky at the Drake Hotel. While the injunction was in effect and in force and just prior to this trial, Charley Hirrlinger's place at the Drake Hotel was raided. Whisky was found. There is a man that disregards the order of the Court -- of law and order -- testifies here against someone, that they have shown enough -- the evidence only shows or purports to show that this defendant was engaged in gambling. Now isn't it peculiar to you that we only have the word of Bill Edwards and Charley Hirrlinger? Let me tell you this: -- And this I believe in all sincerity, and that is this: Why do they abandon -- why did they leave the
1588] prostitution alone; why do they say -- why did they say they didn't pick up any money from it? I will tell you why. They was afraid Uncle Sam would involve them in white slavery, and so they deleted that, and they had a change in the process of this trial, and rightfully so.

Then Charley Hirrlinger says he picked up for the gambling, and Bill Edwards says that. All right, you have Charley Hirrlinger, a man that has been engaged in the gambling, in violating the law, and who apparently wanted to, by this action, freeze out any competition of any other, the same as Bill Edwards wanted in the whisky field. But this is the one thing that cinches my argument, and I ask you, Mrs. Davis, and Gentlemen of the Jury, to consider this: Dale Hines was on the witness stand, -- Dale Hines was on that witness chair for the United States Government, placed there by Mr. Crawford -- remember? -- He testified, insofar as Cleo Epps was concerned. But did Mr. Crawford stop there? And then he had Charley Hirrlinger come on the stand and say that Dale Hines left money down at the American Billiard

Hall for the pick-up, in payment of protection for gambling. All of the other testimony he has attempted to corroborate. Why didn't he ask Dale Hines when he was on that stand if he ever paid off a dime during that time or if he left any money at Johnnie McAfee's for Charley Hirrlinger? He was there, Ladies and Gentlemen, and answer that in your mind -- why?

1589] Here's another reason that I give you: From that witness chair for the last few weeks has come evidence -- has come bulletins about whisky raids. Whisky raids and whisky convictions. Did you see the United States Government put on any evidence -- any -- with respect to raids on Mr. McAfee's establishment, or anybody else? Ask yourself why. And I defy Mr. Crawford to tell you why. Because they have records there for them the same as they do for whisky. Think in your mind -- do you think that if those records would have reflected anything toward any guilt on this defendant's part, that those records would not have been introduced? Do you think that if Dale Hines -- he has been before the Grand Jury -- do you think that if Dale Hines left any money there for Mr. Hirrlinger, do you think that Mr. Crawford would have attempted to corroborate the words -- and the word alone, of Charley Hirrlinger and Bill Edwards? Remember, there is another fatal variance. To this date -- to this minute Johnnie McAfee, Jay Jones, have been associated by any stretch of the imagination other than the words and words alone of Bill Edwards and Charley Hirrlinger. Think about it -- words of confessed felonists, of a man that admits to his gambling activities, a man that told you from the stand he didn't make a bit. Why? Why, if the Government wanted to prove beyond a reasonable doubt that they did not when they had it in their hands, and within their reach to prove these statements of Charley Hirrlinger and Bill Edwards, why didn't they do it?
1590] Ask yourself that. It is a shame they could not -- didn't have some witness to support them in some respects in connecting Mr. McAfee with their activities. They didn't try to tell you that he picked up any money.

Now listen to this story: Charley Hirrlinger said, I took $204 down there and laid it on his desk -- no conversation, no nothing -- during business hours, wide open, he hung around down there, yet he didn't know a soul that was in there -- he couldn't tell us anybody; and of course he couldn't be properly cross-

examined -- he feigned a heart attack on the stand -- limited me in my cross-examination -- limited me to any questioning -- I was handcuffed. But the story that he told is unbelievable under the circumstances when it could have been supported if there was an iota of truth in it -- an iota. Ask yourself what I have been asking you. And I want to point out something else to you, Mrs. Davis, and to you, Gentlemen of the Jury, and that is this: Is there any evidence in this record that Johnnie McAfee ever in his life engaged in any liquor traffic of any kind or nature? Right on the stand were the witnesses of the Government -- the bootleggers sat right there and told you they were still in business -- had been in business for years -- does it need a conspiracy for them to be in business? Does that assist them in any way? Even if the Government proves a case -- what they say is true -- how could it be connected as aiding
1591] them with their whisky, after it was already into this State? He doesn't need a whisky stamp -- he never dealt in whisky in his life and there is no evidence that he did.

The Clerk: Two minutes, Mr. Page.

Mr. Page: Think of that -- Mr. Crawford standing here and telling people -- praising the good word of these Government witnesses -- these bootleggers, -- and their activities, right today here in the City of Tulsa, -- and don't you ever let this get out of your mind: When they are talking about aiding and abetting in the violation of these laws, the United States Government sells them a stamp for operating their business -- sells them a tax stamp, collects revenue from it -- makes them post it in their houses in Tulsa County, and then prosecutes them -- it might be said if any of us buys a pint of whisky from a bootlegger -- and it could be -- it could be -- it is just as logical as this prosecution -- that we aid and abet any purchaser in the importation of whisky into this State, and if he didn't happen to have a wholesale stamp, we were aiding and abetting to deprive the Government of proper taxes to sell here.

The Court: That is just a little bit preposterous. And it is not a correct statement of the law, and should not be considered by the jury.
1592]

The Court will advise you as to the law to be applied in

this case, and has heretofore advised counsel so that they would try to stay in bounds in discussing the legal questions with the jury.

Mr. Page: That was just merely my opinion.

The Court: Well, you are not entitled to give your opinion on the law. That is the Court's function.

Mr. Page: I'm sorry.

* * * * *

Mr. Hall: Thank you, You Honor.

May it please the Court, and Mrs. Davis, and Gentlemen of the Jury, I represent Oliver Stephens. Oliver will you stand up, please.

In view of the positive statement made by Mr. Crawford that the evidence showed a connection of Oliver Stephens with this conspiracy, I have changed the plan of my argument and I think you, the members of this jury, would want to know just what the evidence is. With respect to Oliver Stephens, and I shall not deal in any oratory, but shall point out to you question and after question that was propounded to him from an official record taken by the Court Reporter in this Court, 1593] and at this time now I want to refer to the testimony -- all of the testimony which has been given that relates to Oliver Stephens, and I want to remind you that of the one hundred eighteen times witnesses have been called to that stand, only two, Bill Edwards and Hunter, a partner of Oliver, has mentioned Oliver Stephens. And before I go into -- into the calling of your attention to the evidence I want to remind you that I only have ten minutes and it is impossible for me to take every question in here, but the record is here, and I make the positive and unequivocal statement that there isn't a line of evidence in this record that connects Oliver Stephens with this alleged conspiracy, and if you do not believe I am stating a fact, you have the right to ask His Honor to have this testimony read to you.

Now then, let's go over the testimony. They first bring --

mention us, when they tell about a meeting out here at Pines Theatre on Cincinnati Street in which Mr. Edwards said he and Paul Livingston were present. And he said the subject of it was to organize this conspiracy in the negro district. And then he makes this statement: Because I was in charge of the colored part of town through Theopolis Scoggins, and Scoggins wanted Hunter and Stephens, because he could work with them, and we finally agreed if Theopolis Scoggins was to handle the colored part of town he should have the officers that he wanted,
so they were appointed on a trial basis.
1594]

Those are his words. If it didn't work out we intended to move them.

Now, then they had another conversation and he said he was after Stephens and Hunter -- he was after Stephens about them not raiding. And here's what he said: Well, I laid all the blame for the failure of collection falling down in that area of the town on Hunter and Stephens. Because -- Bill -- because we didn't do the thing that he wants us to do. He said, Here the conspiracy is failing and he laid all of the blame on Stephens and Hunter. I told Paul that Theopolis Scoggins couldn't get them to do any work over there, they didn't arrest anybody. Paul said, Well, they are Scoggins' men; if he can't handle them, we had better let Scoggins go too.

That is what happened, they were replaced. -- Testified that he never could get us to do anything and then they replaced us, because we didn't do anything and because we didn't assist in the enforcement and the carrying out of this alleged conspiracy, they bring us in here to send us to the penitentiary because we didn't do anything in furtherance of the conspiracy. And then they go on. Mr. Crawford asked him, by enforcing the law, do you mean enforcing the law against those that were paying or against those that were not paying? Those that were not paying, but they didn't arrest anybody. Well, I was trying to get Stephens to arrest somebody. What did he say? He said, he was
going to get tough, but he never did. I talked to him
1595] again -- what was Stephens saying? He said, I was going
to get tough -- but he didn't. And then in his cross-examination he goes into the same thing when I cross-examined him on the witness stand and you will remember about the only

thing he added was that after I told him -- you said, this boy didn't do anything, don't you remember, -- he did, -- we have J.D. Pitts, supposed to collect from the boys, and he did raid Alfonso Williams, he got forty-five cases of liquor there -- did you know that? Did you know that during the five weeks he served on the raiding squad he had about fifty-five or sixty raids, and averaged about two a day -- he said, that is not being active. They want to condemn us because we didn't go out here and do what Bill Edwards said we should have done. Now, -- they talk about -- an illegal combination in getting together, and an agreement, and that is what His Honor says they have got to prove in order to show a conspiracy -- where is the conspiracy that we are to do anything? Where is the agreement that we are to participate in this in the way of profits? Not a single line of testimony -- not a word. Of course I know what he will say. He says, he proves this by circumstances. But His Honor has advised us that he is going to give this instruction on circumstantial evidence: That as to each defendant the circumstantial evidence relied on must be completely inconsistent with innocence and must exclude every other reasonable hypothesis save that of his own guilt. So that when he tells you
1596] that he depends on circumstances to prove Oliver Stephens participated in this, remember that one outstanding circumstance, that he didn't do the thing that Bill Edwards wanted him to do. And that certainly is, in the light of the Court's instructions, inconsistent with his guilt.

Now they say we didn't do anything; we had one raid and we got forty-five cases of liquor from Alfonso Williams, the man we are supposed to be in on a deal to collect money from, and the Government's own witnesses say that the average number of cases recovered by the Department was from ninety to one hundred a week; we recovered forty-five in one block -- one raid. And yet we are to be sent to the penitentiary because we are not doing the thing that Bill Edwards thinks we ought to do.

Now let me show you the inconsistency of that position: Bill Edwards took the stand here and he testified about pay-offs, over in this section of the City. And they brought in the man who paid; they brought in the man who received it; they brought in the person who heard the phone call; they brought in this person and that person, somebody who saw him in Tulsa,

and when they came over here in our section they attempted to prove a pay-off, where is Alfonso Williams; he has been standing at that door most of the week. Where is Fletcher? They know where he is. Where is Roy Johnson, the druggist over here who is alleged to have paid some money? Where are they?
1597] They are as silent as the tomb, and they didn't bring them here in support of Bill Edwards' testimony as they did in the other instances.

Now, Ladies, -- Mrs. Davis, and Gentlemen of the Jury, who is the one person who points the finger of accusation at us? Not Hunter, because Hunter was appointed just as we were, to enforce the law, and he was replaced. And all they charge us with there is, that we told Hunter to keep your nose out of something that doesn't concern you -- or, what you don't know doesn't hurt you -- that is good advice to anybody. But who is this man? The only man through whom the Government attempts to connect us with the conspiracy, a man who hates his brother, -- a man who hates his father and doesn't speak to him for two years and whose mother goes to her grave, and hadn't seen him for ten months. A man who is doubtful even about the fact that God above lives and exists. That is the man on whose testimony they depend to send Oliver Stephens to the penitentiary.

Thank you.

Mr. Ungerman: May it please the Court, Mrs. Davis, and Gentlemen: I represent in this case the Chief of Police, Paul Livingston, -- stand up, Paul, -- and members of the raiding squad, Harp, Jackson and Cole.
1598]

Those gentlemen are charged with the crime of conspiring against the United States of America to import liquor into Oklahoma, a so-called dry state, without having secured the necessary permits to import it. And Count 2 of the indictment charges them with engaging in the business of selling liquor at wholesale and at retail without having procured the necessary tax in the procurement of the stamps. Now those are the charges against these four men.

I have tried to carefully review the evidence that has been transcribed by the official court reporter and I find that insofar as officers Harp, Cole and Jackson are concerned, they are only mentioned by these witnesses in the following manner: Bill Edwards -- Mr. Crawford's star boy in this trial -- testified that the members of the vice squad -- now those are his exact words -- not raiding squad, but vice squad, were to receive $200 per month. But nobody in this courtroom, out of the parade of one hundred eighteen times that people ascended those stairs to testify, has ever said on one occasion that one single dollar was ever paid to Harp, Cole, Jackson, members of the vice squad. Richard Carter of the Police Department testified with relation to Leo Jackson, he said that Jackson once asked him in the vice squad room at the Police Station, did anyone approach you -- those are his four words, in the official record. The answer given by Jackson as testi-
1599] fied by Carter was, No. Charles Bruner, a member of the Police Department, testified that on last Christmas night at Cain's Dancing Academy up hereon North Main, while Officer Johnnie Cole was on duty there maintaining order, that he saw an incident take place that he contends that he saw Chancey Jones walk up -- shake hands with Cole and hand him something. Mr. Crawford tried his level best to get an admission that it was money that he saw pass, and if you will remember on cross-examination Bruner fell down and wouldn't swear under oath that he saw any money pass. Now remember one factor on this thing: Bruner testified positively that Johnnie Cole was not in uniform. Then a minute thereafter the official record reveals here that Officer O'Neal took the stand for the Government and he positively testified under oath that Cole was in uniform. And, secondly, that he did not see Chancey Jones give anything to Cole that night. On cross-examination O'Neal brought out a very significant fact, that he and Bruner had gotten into a heated argument at the Police Station regarding their testimony to be given in this courtroom. And that Bruner attempted to get him to testify that he saw Chancey Jones give Officer Cole money, and O'Neal told him he wouldn't so testify because it wasn't the truth, and they got into a row at the station about it. That is a part of the official record, if you want it read to you.

1600] The next witness for the Government that mentions any part of the raiding squad whom I represent is a fellow by

the name of Robert Henson, who testified he was the operator of a whisky joint on East Haskell. He said that Jackson, Cole and Harp raided him repeatedly -- both with and without warrants. He testified that he had to keep all liquor hidden to keep the officers from finding it. The next witness testifying insofar as these three members of the vice squad are concerned is Dave Massey. He testified that he knows Jackson, Cole and Harp, who raided him many times during the summer of 1956, especially during June, July and August, at least five or six times. The only other witness besides one other who testifies anything or makes any mention of Jackson, Cole and Harp is George Mose, a known bootlegger who testified that he came back to Tulsa in October of 1956 to go into the whisky business, and his exact testimony is that he was raided within two weeks by Harp and Cole. The only other witness who makes any mention of these three men is Marshall Sharp, who testified that he ran a walk-in joint out here on the north side and in 1956 he was repeatedly raided by the city raiding squad, both with and without warrants -- said that he had a conversation with Jackson on one of these raids, and here is the exact words of the conversation: Didn't want to be the goat for the whole neighborhood -- to which Jackson replied, Sorry, Marshall, I don't know anything about it.

1601] It is on that testimony, fellow citizens, that Mr. Crawford wants you to send these three career men of the Tulsa Police Department to the penitentiary -- he wants to take and ruin their reputations -- themselves, their families, their careers, and when you go to the jury room, you can look at this exhibit that Mr. Crawford has brought before you and see how many years these men have put in on the vice squad in the City of Tulsa. On that testimony alone he says that they have been engaging in the wholesale and retail liquor business in Tulsa, that they are a part of a conspiracy to do it, and that they are a part of a conspiracy to import liquor into the State of Oklahoma from the State of Missouri. I ask you in all fairness, has anybody made any case against them in any respect whatsoever worthy of your consideration?.

Now I want to talk just a few minutes regarding the testimony of some of the other star witnesses for the Government. Bill Edwards took the stand -- it is unfortunate that we have to waste so much time on that type of an individual. But in

fairness to myself as a citizen of this community and a tax payer I think I should give you a few minutes, to give you my observation of that particular individual. Here is a man that got on the stand and testifies to an alleged conspiracy when at that particular moment in his own testimony he is doing real well, and as one of my colleagues has mentioned he had just laid down $40,000 in greenbacks for the payment of a home out here in a very swank neighborhood. Here is a man
1602] that wants you to believe that in spite of his financial position, and doing real well as a bootlegger in the community, he forms a conspiracy out of which he wants you to believe that he was to only get three and one-third per cent of the net. If his story is to be believed he would owe the deal at the end of each month, because when he tries to foot the gross expenses that he calims were to come out of the tip, there wouldn't be anything left. And you can see from his testimony, he claims he only got $200, and some-odd-dollars, and cents as a result of the operation. Do you want to believe that kind of a story? A man in that position, as he placed himself, would go in and form that kind of a deal. I don't think that's the reason for his story, and based upon the testimony it is my humble opinion that in this instance we are dealing with an egotistical, psychopath, one that has blowed himself up so large that he had to come in with a story to erase and remove those who have made it pretty rough for him to exist in this community. He wants you to believe that he was part and parcel of a scheme so that now he can do away with those individuals who have made it rough on him in the past, eight or nine months time, to where he is no longer a kingpin in the community insofar as bootlegging activities are concerned. This is the type of testimony that the Government wants you to believe to send Jackson, Cole, Harp and Livingston to the penitentiary.

1603] In Chief of Police, Paul Livingston, you will see from the records and the evidence admitted before you that we are dealing with a career man -- a man who has given many years under the Government's proof to the enforcement of law and order in this community. And they want you to believe that he was a part and parcel of this Bill Edwards' fantastic story that would wreck his career, wreck his life, and take him away from this good lady that sits here on the front row of the second section, and place him in the penitentiary. Bill Edwards is a very peculiar

individual because two weeks from this coming Sunday when all of us will pay tribute to our mothers who may be living today or who have passed on, there is one individual that will not pay tribute because he testified under oath here in answer to a question propounded to him that the happiest day in his life would be when he saw his mother lying in a casket. That is the character of the witness that the Government has brought in, wanting you to believe, to send these career men to the penitentiary.

Now the Government has said in this case that their star witness is telling the truth. They had no idea that Ben Bly would come and tell you folks under oath that which occurred a week ago Wednesday night. Ben Bly had nothing to gain or nothing to lose because apparently he isn't going to be prosecuted because we don't find him sitting with the defense, but

Ben Bly felt that in fairness to his rights in the com-
1604] munity he should tell you folks that he was called out to

Bill Edwards' house after the trial started, and been in progress two days, and told by Bill Edwards that if we are going to get any place in the liquor business we are going to have to convict those twenty defendants. Does that sound like the testimony of a disinterested honest witness for the Government? Or does it sound like somebody who is planning something for the future? The Government has peculiarly relied upon a type of testimony that in the many years I have practiced law in this Court I have never seen before -- they brought in here a man, Harry Miller, who is right now serving a term in the penitentiary for perjury in this Court within the last couple of months time; they brought before you another man, Red Carter, whom I am sure the District Attorney did not feel that we should have access to the record of the Grand Jury proceedings in 1952, but by an order entereed by His Honor in fairness to all parties concerned, gave us that transcript, and we find that Red Carter was a deliberate perjurer, on one of two occasions, either when sitting on the stand here this week, this past week, or when he testified under oath before the Grand Jury in 1952. I want to say this in all candor and in all fairness to all parties concerned, that I think it is rather peculiar that Red Carter's testimony was given just beyond the date upon which prosecution could lie for the testimony of -- given in the nature of deli-

berate perjury --

1605]

We then find J.D. Pitts, another star witness for the Government, whom His Honor felt compelled to advise you to disregard the testimony of, because of the apparent perjury right in open court. That is the type of testimony, fellow citizens, that Mr. Crawford wants you to believe and wants you to use to send these four career men of the Tulsa Police Department to the penitentiary.

And I want to say this: That based upon my observation of the six, seven, or eight days of the trial, and the evidence, that I don't think at this point that this is a case that should be properly captioned and styled, United States of American versus Jones, et al., but it appears to me from this evidence, as my own deduction therefrom, that it is a case of Bill Edwards, Charley Hirrlinger, Red Carter, Harry Miller, and other thieves, crooks, underworld characters, perjurers, against the Tulsa Police Department in an effort to remove them from their positions and stations in this community so that this group of underworld thugs can continue to operate in this community and go around with their chests sticking out and saying, You see what we did to that bunch in the Federal Court; you better leave us alone or that is what is going to happen to you.

1606]

Now you have the right, Mrs. Davis, and Gentlemen of the Jury, when you go into that jury room to deliberate tonight, to place your stamp of approval upon that conduct if you so desire. But I don't think as fellow citizens of mine in this Northern District of Oklahoma, that you will accept such perjury -- such testimony, and permit Bill Edwards to put himself up as the king of the underworld with a stamp of approval of the jury in the United States District Court.

Thank you.

Mr. Hickman: May it please the Court, if I could take time out long enough to state that I am authorized on behalf of my colleagues and for myself to express our appreciation of the patience and consideration you have shown us in the trail of this case.

The Court: Thank you, sir.

Mr. Hickman: And you, Mrs. Davis, and Gentlemen of the Jury, I don't know whether you know me yet or not: I am Frank Hickman; and I represent three of the defendants in this case, Jay Jones sitting over here, Jack Gott, and Tommie Peterson. These people -- these last two are members of the Police Departemtn, and Mr. Jones as the evidence has shown is the Police Commissioner.

1607] I am the last person to speak on behalf of any defendants in this case, and when I have concluded it will be the duty of Mr. Crawford to complete his summation of the case, after which you will hear His Honor's instructions. I want to approach in reasoning, the argument in this case from a different angle than has been done so far. I don't want to indulge in any flights of oratory or to get excited about it, but kind of stand here and put the searchlight of reason on the facts developed and study the case together as if we were sitting around the table discussing something that we had to reach a conclusion in. I don't want to condemn anybody in this trial. Although it is hard to refrain from doing so. Let us just analyze what this case is about.

It is true that the charge -- the indictment alleges that this conspiracy started in January 1948. While that is the accusation, that is not the proof. And I anticipate that His Honor will tell you that the evidence shows no conspiracy within this indictment before March of 1956. I am sure that His Honor is going to tell you that the only evidence of conspiracy under these two counts in the indictment was evidence that it was conceived in March of 1956.

Now the charge is that this conspiracy was to do two things -- two things only: One, to wilfully import intoxicating liquor into the State of Oklahoma without having secured the permit required by the laws of the State of Oklahoma. That is, in violation of Federal Law. To bring liquor into
1608] the State of Oklahoma from a wet state without procuring a permit from the State Tax Commission is a violation of Federal Law, and really to bring any intoxicating liquor like whisky from Missouri into Oklahoma is a violation of Federal Law because you can't get a permit for it. The only permit you can get for it is for sacramental wine. So, we are dealing here

with a whisky conspiracy and not sacramental wine.

The other conspiracy is that these defendants and co-conspirators agreed to engage in the retail and wholesale liquor business without having first paid the special tax required by the Internal Revenue Laws.

Those are the two objects of the conspiracy -- those are the two Federal Laws that the Government contends this conspiracy was formed to violate.

Now, let's accept this young squirt, as I call him, Bill Edwards' testimony as true; let's just for the sake of argument analyze what he said. And, let's analyze what Hirrlinger said, because they are the only Government witnesses of an alleged meeting and the formation of a conspiracy.

I believe in calling a spade a spade. I don't believe in mincing words. Let's just see what this alleged conspiracy was, according to the testimony of Hirrlinger and Edwards.

The conspiracy according to them was this: That we will
1609] make the bootleggers pay money each month to run in the City of Tulsa without being raided, arrested, or having their liquor seized.

We will collect from the prostitutes in consideration of leaving them alone.

We will collect from the gamblers in consideration of which the police will turn their faces the other way, and let them carry on without being arrested and prosecuted.

That is what Bill Edwards says was the scheme. That is what Hirrlinger says was the scheme. And that is the only fact I think that has been uttered by any attorney since Mr. Crawford sat down this morning, that he won't contradict. That is what Edwards says; and that is what Hirrlinger said: That they were going to exact tribute, or money, from bootleggers, prostitutes, and gamblers in exchange for not being molested by the Police Department. Now isn't that a fair summary of their evidence?

I ask you this: Did either Hirrlinger or Edwards testify to a single fact in the making of this alleged conspiracy, and in the setting up of the deal, -- did they testify to a single fact about importing liquor from a wet state into Oklahoma by anybody? Did they say that was even considered? Was there any discussion about paying taxes for carrying on the business of a wholesale liquor dealer or a retail liquor dealer -- was that a part and parcel of the conspiracy?

1610] Those things, in all fairness to the defendants, you must conclude were things completely eliminated from the discussions of all the parties in the creation of this so-called scheme. I submit that there is no evidence before you from the lips of anybody that part of this scheme with reference to these officers had to do with importing liquor from anyplace outside of the State of Oklahoma, into Oklahoma. I defy the District Attorney to point to the evidence of a single person that that was even brought to the attention of anybody in the creation of this alleged scheme.

Was anything said by anybody as to whether this man or that man had a retail liquor dealers stamp or a wholesale liquor dealers stamp? No. That wasn't discussed. So I say when you analyze this as reasonable people you must come to the conclusion that the two things embodied in this indictment, namely, the planning of bringing liquor from Missouri into Oklahoma, and the carrying on of the business of wholesale and retail liquor dealers without paying the tax are the two things that were specifically omitted and left out of the discussion in connection with the conspiracy that they allege was formed. I defy counsel to point out the evidence of a single person that had anything to do with that. The whole thing -- let's call a spade a spade, and call it a dirty picture, if you want to, was a system whereby these bootleggers -- I believe the Court has concluded that the evidence so far as prostitution is concerned is out -- but let's take the bootleggers, the liquor busi-
1611] ness, and that's all the Government is concerned with -- what evidence is there that anyone discussed the question of whether they would be sure to get retail liquor dealers stamps or wholesale liquor dealers stamps -- there is no evidence on that. And when you reason it, the conspiracy, in all fairness to everybody, was not to import liquor -- not to carry on the

business without paying the tax, but to pay tribute in exchange for being relieved of the risk of having your car searched and your liquor seized, and maybe your pint pitcher arrested, and carried to the police station. That, I say, in all candor, is what this conspiracy was about.

Now, let's see if this is a conspiracy to violate any laws of the United States. I don't justify it, and say it is not a violation of the laws of the State of Oklahoma -- if that thing was planned -- if that evidence of Edwards is true, or Hirrlinger is true, my clients have violated the laws of the State of Oklahoma. But that is no concern of yours -- the question here is whether they committed the acts charged against them in the indictment.

I do not believe in the philosophy of trying a man for guilt or innocence, and then leave the subject under which he is charged and convict him just because he can't deny that he has quit beating his wife. You are only allowed to convict in this case if you find the defendants beyond a reasonable doubt guilty of the charge.
1612]

Now this might surprise you: His Honor will tell you in his instructions and on the law, that there is no duty on the part of the officers of the City of Tulsa to enforce the liquor importation act; there is no duty on the part of those officers of the City to enforce the Federal Laws respecting the carrying on of the business of wholesale and retail liquor dealers without paying the tax. He will further tell you in his instructions that the mere failure of these police officers to arrest persons for violation of those laws does not create <u>vidence</u> sufficient to show the formation of a conspiracy. In other words, the mere failure of the officers to arrest these people -- the failure to do that which Bill Edwards says they agreed to fail to do -- His Honor will tell you is not enough to convict in this case. However, if the evidence shows that officers aided and assisted in bringing in liquor from Missouri to Oklahoma or aided and assisted in the carrying on of wholesale or retail liquor businesses, where the tax had not been paid, then they could be guilty.

So you have to find out under this evidence, where did

the officers aid and assist anybody -- where is there evidence -- in all fairness to everybody, where is their evidence that these officers or any of them -- Mr. Ungerman's clients, or this colored officer represented by the expectant father, Gordon Patten, -- where is the evidence that they have aided any liquor dealer, or bootlegger in carrying on his business, 1613] whether he had a tax stamp or not? So you will have to find under His Honor's instructions that he will give you that they aided and abetted these bootleggers in importing liquor and in carrying on the business without having paid the tax required by the laws of the United States.

You know, there is a little bit of hypocracy in this thing -- I don't mean in this trial -- I mean in the revelations of this trial -- to me it is hypocracy -- to others it might not be that bad. But, the bootleggers can't bring their liquor in from Missouri into Oklahoma, store it out in the county in a plant, peddle it by car, without violating the liquor importation act, but having brought it here, put it in its resting place, and started to sell therefrom, they violate no law of the United States if they have a tax stamp. And it is for the same reason that the officers of the City of Tulsa are under no duty -- no obligation to enforce these Federal Laws.

Now this Bill Edwards says he sold in case lots, in excess of five wine gallons at a time -- in other words on occasion he sold wholesale. There is evidence here that on occasion, one or two occasions, one or two other men might have sold wholesale that didn't have wholesale liquor dealers' stamps. But they all had retail liquor dealers' stamps -- all except John Hood, and I don't believe the evidence is sufficient to show that he was selling whisky. I don't think the evidence is sufficient to show that Hirrlinger was selling whisky. 1614] He didn't have a stamp either -- although he owned property that was being used for that purpose. But to find my clients guilty, you are going to have to find, Mrs. Davis, and Gentlemen of the Jury, that my clients conspired to engage in the liquor business -- conspired to engage in the process of bringing liquor from Missouri into Oklahoma and to engage in either the wholesale liquor dealers' business or the retail liquor dealers' business, without paying the tax required by law. And I submit that there is a total lack of evidence that

any of these officers, since March 1956, which is the date His Honor will tell you this conspiracy commenced, ever sold a drop of liquor or ever aided anyone else in selling any liquor or assisted any one else. Sure, the evidence points to the fact that graft was paid. I'm not going to stand up here and argue to you that the evidence isn't what it is; it is up to you to believe it or disbelieve it but there is proof here -- there has been some testimony introduced that graft was paid -- not justifying it -- I am not an advocate of it -- I think it is one of the greatest evils there is in the municipal system of the United States -- takes place in all the cities; you know it as well as I do; it has always been done -- that -- that's why they felt safe in going back as far as 1948 -- five police commissioners before that. But the point is, we are not charged in this indictment with accepting graft; we
1615] are not charged with being bribed by the bootleggers; we are charged with conspiring to import liquor into Oklahoma, and therefore to carry on the business of unstamped retailers and wholesalers; and I submit there is no evidence of that and I think when you hear His Honor's instructions that these officers are under no duty to enforce these Federal laws, and he tells you that there has to be evidence that they aided and assisted these unlicensed non-taxpaying bootleggers, and that is what they have got to be in carrying on the business here, then you must acquit them. And that is what I submit you should do.

Thanks very much.

* * * * *

Mr. Crawford: Mrs. Davis, and Gentlemen of the Jury; I anticipate that after all these months of investigation and this trial, and many of the comments that have just been made, that I might be expected to follow my initial reaction and become very indignant over the whole thing. But actually
1616] I don't recall hearing very much that is even worthy of answer, insofar as the defense attorneys' arguments are concerned. They admitted many facts that have been proved but they have also misquoted much of the record. Other inconsistences, they spoke at great length about the terrible Bill

Edwards, as though he were the only witness, and then advised you that there was some one hundred eighteen that had been used; in one instance, he makes the case, and in another, all these other people do. The only contention of the Government is that Bill Edwards is telling the truth. The worse picture they paint of Bill Edwards, the worse it is with these defendants because they were associated with him and conspiring with him. Defeat their own purpose with that type of argument.

Now there is one thing I would like to straighten out. This transcript that has been referred to so many times, that it is indicative, or proof, that Bill Edwards lied over here in the Court of Inquiry August 28, is an argument entirely without merit. They built up, they asked these questions. This is an exhibit I am confident the Court will let you take it with you to the jury room, -- notice what they did; they asked him a lot of questions, asked him where he lived, 3255 South Florence; that is where he lives now, I think. There was something said here about him recently paying this money; this house, he lived there at least three and a half years, by this record alone.

He says he is in the liquor business, he operates it there
1617] in his home, and this and that. They come up to this point: They say, who did you buy your whisky from. I admit that he is hedging about; but he didn't perjure himself. Who did you buy your whisky from, please -- this is the county attorney. Well, various people; due to the fact I have been in the whisky business a long time I don't have any trouble finding whisky. They call me -- the wholesalers call you. Yes, people call me every day wanting to sell me whisky. Question, Who are some of them that you buy from? Answer, Well, I don't know, they tell me their names -- they tell me names, whether it is their true names or not I don't know. Question: You don't know anybody that you buy whisky from? Answer: I know them by the names they give me. They then go in and ask him about specific people. The logical question that follows that, what are some of the names they give you, was never asked; he never perjured himself. That is just an example of the type of thing that you are being pounded with in an endeavor to make you misconstrue the facts in this case, what it is all about.

Then they go into this matter about Ben Bly; Ben Bly took the stand -- and actually what happened when he came back the

second day was that apparently Bill Edwards called him on the telephone; he wasn't summoned, as the question was asked to him. He went out and they conferred about two cases that they each had on appeal, about apparently some sort of
1618] arrangement they were going to take care of them, because one case depended on the other. After they had this conference they sat down in casual conversation, with this young boy present, and Mrs. Edwards, and Bill Edwards, in the course of the conversation, Bill Edwards said, in a joking way, if they don't convict those defendants, we are going to have to get out of town. The next day Ben Bly comes down here. The statement was made by Ungerman that he wasn't staying with the defendants, but he certainly was endeavoring to stay with the defendants. Mr. Ungerman said he had no motive. The motive is obvious, he had to testify and tell the truth, he thought he might not be able to conduct a liquor business, when he gets through doing that, he would do all the damage he could; he would get over on their side and when he got through testifying he would satisfy us and he would satisfy them, which is not what happened. So, he takes the stand, and after we question him, Mr. Ungerman asked him, were you out to Bill Edwards last Wednesday night; and he said, Yes. Mr. Ungerman said, what did he say to you. His answer is very unusual; he didn't talk about the primary reason he was out there; he didn't talk about the conversation they had -- he came back from, he told me, he said -- he told me that if we didn't get all twenty of them convicted, we would never get back in the whisky business. But that is not what he said, that is the response, it is obvious from that alone what Ben Bly was trying to do. Then when we asked him the next day, brought him back here, put him
1619] on the stand, he admitted that is not what Edwards said; that it was his impression -- impression, he said that he got from Edwards saying that if they didn't get all of them convicted, we will have to get out of town. Now that is an example of the type of thing that has been done and the type of argument that has been made to you. And of course we put the boy on there to show that -- this borders a little bit on the ridiculous -- these apparently are desperation arguments.

Now let's take a good long look at what this is all about and what happened. They have made some arguments that I feel that I now may properly answer. They made some statements

that may enable me to answer to your satisfaction things that have happened. Obviously this has been going on a long time. Mr. Hickman endeavors to justify graft and corruption in municipalities by the statement -- by the statement it has gone on for a long time, or that it happens somewhere else. Well, that is no justification. Apparently it has gone on for a long time and they thought it would continue to go on. True, by their own statements to you, their own attorney, they probably violated state laws that are much more serious than these Federal laws, but they didn't think the Federal Government would do anything about it. If we hadn't had Hirrlinger and Edwards' testimony right there in the middle of the agreement, there is some possibility the Federal Government
1620] would not have been able to do anything about it. But, that has been corroborated all down the line by dozens and dozens of different witnesses. So they met out there and they conspired, and they worked out this agreement. And that agreement went into operation. No concern about the Federal Government, and look what happened. By this exhibit, things got back, it was rolling good. There are the number of liquor cases filed in the Tulsa Municipal Court from May 8, 1955, to December 13, 1955. The one-year period that I have talked about, even in '55; now look what happens. Jay Jones became Police Commissioner, on this date, and Paul Livingston his chief of police; Jackson, Cole and Harp get into the raiding squad; Gott gets into it; Stephens get into it. And for the same identical period, 1956, that is what they filed, one hundred and four as compared to the three hundred and twenty-nine. These facts are undisputed.

All right now, on December 13, the Federal Government did have a raid, and endeavor to do something about it -- that is apparent from the facts. Twenty places raided in secrecy, without advising the City or asking them for their assistance. And Mr. Gibson testified the raid was successful. So, they awaken then to the fact that the Federal Government may do something about it or endeavor to do something about it, and what happens? For this small period of time, December 14th to March 31st, 1957, they filed one hundred and fifty-one
1621] liquor cases. Things picked up. To avoid exposure. And the same story is told by the average -- the weekly average number. Somebody might come up and say, Well, sure,

they filed a lot one week and none the next. Look what happened. This is extremely interesting. Here is a period of time where it was going full force, Police Commissioner himself -- Chief of Police, vice squad people for that period. But December 13, the weekly average is 3.31. Here is an astounding thing: After December 13 when they realized that the Federal Government was right here and going to do something about this, they go back and they commence to file, and look at that weekly average; it is almost identical -- they hadn't quite caught up to it, but it is almost identical to what it was before. You see what happened. In July they were under the belief that there never would be an indictment returned by the Federal Government. There has been testimony about the 1952 Grand Jury -- nothing was done. Undoubtedly one reason nothing was done was because some people didn't tell the truth then -- they got together. So why should they worry about the Federal Government; they got by in 1952. But you remember Red Carter said that the whole thing stopped when the Federal Grand Jury went in session in 1952 for a while; that's exactly what happened here undoubtedly. Right here on the 13th it all stopped for a while, and see, it went on, I think the testimony is there is pay-off still going, but they were getting after them;
1622] nothing to worry about from the Federal Government until December 13th.

There is one other thing I think you are entitled to know; it has been brought out, there has been a lot of comment about this street car -- we will call it street car, railroad train, or a bus, whatever you want to call it -- there has to be some way to visualize what was happening. Certainly -- certainly we named Nolen Bulloch as the conductor, but what did the Court hold? I am sure the Court will instruct you that the evidence on behalf of the United States fails to establish a conspiracy running from January 1, 1948 up until this time, but it has established a conspiracy commencing in February or March of 1956. Therefore, since no conspiracy was established prior to that time we were unable by the evidence we had to tie Nolen Bulloch into the conspiracy. The Court held our evidence was insufficient -- not no evidence whatsoever as stated by Mr. Malloy, but insufficient to tie him in after March of 1956. Now they come in today, they say because there is an empty chair, because of that insufficiency in the evidence, that

the rest should all go. Well, I believe there is no argument to that that has any logic.

And they get into this -- this talk in their argument to you about the newspapers. They talk about Mr. Steen.

Well, the evidence shows that I called Mr. Steen. Mr.
1623] Edwards had gone to the State Crime Bureau; he had gone any place else -- apparently he didn't think the Federal Government would do anything about it either -- they didn't in '52. Testimony is I called Steen, and asked him if he would arrange some way for me to talk to Bill Edwards. Testimony shows he had been associated with Bill Edwards one time in the Golden Glove activities years ago. Logical deduction from that, that I knew that and thought he might have some influence with him; and for Mr. Steen to arrange some meeting. We had a second meeting when Mr. Steen wasn't even there. No agreements in that for a man to perform service for his Government by accommodating -- and they try to make a crime out of it. Believe me, there hasn't been any endeavor in this case whatsoever to do anything but to bring out the truth on behalf of the United States. And I hope the day will never come when a United States Attorney will shrug in fear and run from the newspaper reporter because he is backed by the press; if he does we may as well all pass, and go. This is the only forum we have. You twelve people are going to decide this case. Nobody else. It has been our hope and our prayer that twelve honest jurors -- and I am sure you all are -- can decide this case in accordance with the Judge's instructions, on the facts of this case alone, and not by pressures and fears. And it has been borne throughout, on the stand, and from this use and abuse given, for instance, these comments that they have made about Bill Edwards in his relationship to his Creator, and his family. Most of
1624] those statements they made to you were questions they asked him -- questions they asked him. Not answers he gave. He said he believed in a Creator. Did everything they could to tear him down. And they never did because he was telling the truth But he isn't important to the thing anyway. He was a paid witness. He was there and he was willing to talk. Hirrlinger did the same thing. And they endeavored to cast reflection on him. Let me ask you a question: In your minds, answer these questions: Who are these people, such as these

defendants going to conspire with? Are they going to go to the ministers of our churches? Are they going to broadcast over the radio what they are doing? No, they are going to conspire with law violators; they are going to conspire with whisky men -- with gamblers. It was the contention of the Government, yes, that Bulloch was a conductor -- a crusader for graft. We failed in making that evidence sufficient, but that doesn't mean there wasn't some evidence there. It was the contention of the Government that Wells replaced Hirrlinger, and did the things that Hirrlinger was supposed to do in the conspiracy. The evidence was insufficient on that part. The evidence as to Neal Williams -- and that has been brought out by defense counsel -- shows that money was delivered by Elmer Oakley for the --

Mr. Gotcher: If Your Honor please, we object to that.
1625] There is no such evidence in this record here. It has been stricken.

The Court: I disagree with you. There is.

Mr. Gotcher: You struck it from the record.

The Court: I didn't strike it. I didn't strike it. I told the jury that he was acquitted because that evidence could not be considered against him unless there was other independent evidence to establish that he became a part of the conspiracy. The evidence is in the record; and counsel made some argument about the defendants who were discharged by the Court. And it is entirely proper for counsel for the Government to answer that type of argument. I doubt if the argument should have been made in the first place but since it was made it certainly may be answered.

Mr. Crawford: In any event the Court held that that evidence was insufficient. They point to the fact that those three people are no longer defendants in this case as justification why these seventeen should be acquitted. I think possibly the converse has something in it too.

Now, Mr. Malloy stated that the only evidence against John Hood for instance, was what Chalma Weakley said. That

is not a fair representation of the record. She stated she worked for John Hood at that address, 1225-1/2 East Admiral, and that they brought the whisky, and at the end of the week she turned the money over to him all the time, either he or Mrs. Hood, at the end of the week they came in and they
1626] delivered the money that she earned for her weekly salary, to her; she didn't buy the whisky; she just worked there for John Hood. It was John Hood's place. That evidence is undisputed; and Bob Henson did the same thing; he testified he worked for John Hood over at 1351 East Haskell for a long time, for John Hood -- eventually he went into partnership with John Hood he said. And of course in addition, another thing that was overlooked by Mr. Malloy, Bill Edwards picked up six or eight hundred dollars from John Hood a time or two. And Marshall Sharp testified that he lived out in the neighborhood and he saw John Hood operating and talked with John Hood about how to get in the fix -- do you remember that -- he talked with John Hood about it; that is not the only evidence on John Hood. We are relying on your recollection of the record and trusting you won't be confused by these remarks of counsel.

And there isn't any question but that Martin Edwards and Bill Edwards were selling in wholesale quantities; they were the suppliers for the other conspirators and co-conspirators. If you want to know what Bill Edwards was going to get out of it, he was selling all this whisky to all these people; he testified he had all the business he could handle, or all he could take care of from this thing; that's why he was so interested in it; that's why Martin was so interested in it. They say Bill Edwards is a kingpin bootlegger. There sits Martin; he took his place; he certainly became just as big a
1627] kingpin.

Now it is not important to show in our opinion importation by each conspirator, as long as we show the conspiracy; and I think the Court will instruct you on that. Mr. Gotcher got up and he delivered another tirade against Bill Edwards -- that seems to be very customary -- and I notice that getting more personal about that testimony all the time. The question I want to ask is, the fact these bootleggers were in there picking up the money indicates how it operates, you couldn't expect Jay Jones to go out around to John Hood and pick the

money up, and that it would be obvious somebody had to be a go-between -- fact, they say Jay Jones wasn't seen doing that is not sufficient to get him off -- that is not true; there was evidence implicating him strongly; he was at the meetings; he conspired, and they were violating two Federal statutes. They knew they were violating them; they didn't think anything would be done. They talk about, there was no conversation at the meetings about importing whisky. It was rather obvious how the people there were police officers, somewhat familiar with the law or at least with the situation, they don't need to talk about importing. They said, Bill Edwards, you are going to be the whisky man, you are going to control the whisky in Oklahoma and Tulsa. That doesn't mean he goes down to the river, sifts it out of the Arkansas; they meant he was going to do that.

There had been delivered to the United States Government
1628] 52-A, and 52-B, showing everybody Edwards sold to -- 52-A showing him buying from Don Gray. It was very simple; they understood that. It didn't have to be discussed; the evidence shows they understood it.

They hammered away on Hirrlinger, on cross-examination practically everybody that took the stand, about the Drake Hotel; there isn't any evidence in the record to show it was closed by injunction. They tried to show some arrangement there, I don't know what it is myself, some arrangement there -- well, let them tear Hirrlinger down; that just makes it more conclusive. The worse they make our witnesses look who were conspiring with them, the more objective it is. Mr. Shortridge comes around and he makes a to-do out of Jim Rogers' testimony, says that Jim Rogers was with Bill Edwards when Bill Edwards went to Glen Brown. The testimony was, Bill Curlee was with the sheriff; sometime later Glen Brown told Jim Rogers, Glen went out and raided Buck's Garage. He testified he started raiding some of the defendants. Actually, from this evidence it is a reasonable deduction that's all Edwards wanted done. He had not been trying to put these people in the penitentiary. That is a reasonable deduction, until along comes the Federal Government, gets in contact with him, and calls him before a Grand Jury. It is logical he didn't conceive that that is the fact as it is shown.

Yet they harp on that, over and over again, he probably
1629] accomplished what he wanted, that was probably why it was difficult to get him here. But he told the truth. Now

they talk about the fact -- I think Mr. Shortridge did, about the fact some of these co-conspirators were not indicted. Well, we would have a great case here if we indicted all of the co-conspirators, we come in the courtroom, everybody sits down over there, nobody takes the stand, the Grand Jury indicted some; didn't indict others. I think the explanation of that is obvious. Certainly there isn't anything improper about that. And he also testified that none of these people told Don Gray they were Oklahoma bootleggers. In my opening part of this argument I reiterated Archie Moore's testimony. He said he told Don Gray that he was an Oklahoma bootlegger, that he was buying this for resale. That was a misstatement; he did buy it for resale; he told Don Gray, there isn't any question about the knowledge of Don Gray. Look at the last figure there, and you know what Don made in that, and when they come up and Mr. Patten -- Mr. Patten makes a very strong point out of the fact that Mr. Scoggins is in a legitimate grocery business. Obviously Mr. Scoggins would have been a lot better off if he had stayed in that business alone; nobody contends that the grocery business is not legitimate -- we concur in that, but that is not what Mr. Scoggins is charged with doing; he is charged with being a part of this conspiracy. Once we put him into it -- once we put him into it, he is bound by all the acts of the others. Neal
1630] Williams got out because we didn't have anybody testifying that, "I took money from Neal Williams," in this system of this conspiracy; but in Scoggins case we do have somebody testifying that he took money from Scoggins. Bill Edwards testifies to it.

All right now, how do we corroborate it? The conversation between Edwards and Stephens and J.D. Pitts, and as I say I think you know which time he was telling the truth. They jump upon us because we haven't called Alfonso Williams in here. Well, I think it is rather interesting, they haven't either. We did call J.D. Pitts; we had enough trouble right there. You remember that. He testified he paid four or five times, $25 a week. Edwards testified his name was on there, the man paying, the man picking up from him -- Stephens -- Mr. Hall comes along, he says that Stephens didn't do anything. Well, the record wasn't read in its entirety; there were a couple of points overlooked. Mr. Stephens conspired, and as I am sure the Court will instruct you, if he is in a conspiracy, and an overt act has been performe

one overt act by any of the conspirators, then there is sufficient evidence to make a prima facie case. And Mr. Stephens had two conferences with Bill Edwards and Scoggins. Who are Bill Edwards and Scoggins? Do they have any right to go out and tell Stephens to get busy and raid, unless it was to do just exactly what he conspired to do? No, Bill Edwards was a bootlegger; Scoggins was a grocery man. And there is
1631] Stephens again saying, I am going to get busy -- I am going to get busy; I am going to get tough; we get tough tomorrow. Well, he got tough with Alfonso, we don't deny that; he got tough on him in June. Mr. Hall made a big point of that fact. Both sides, right after that came out, in this little sequence, this is a question by Mr. Hall, he says, I will ask you if you did not know that on the 6th day of June 1956 he raided Alfonso Williams -- he is speaking of Stephens, -- and recovered one hundred fifty-one fifths; that brought their average up quite a bit -- one hundred fifty-one fifths, one hundred eleven pints, and thirteen hundred sixty-six half pints from Alfonso Williams -- triumphantly he asked that question. Yes, sir, I knew that but Alfonso hadn't paid for the month of June. Well, that doesn't do anything but corroborate what they are saying all the way through here. And the question came out on cross-examination there about the conversation that they had with Stephens, and -- that Edwards had with Stephens and Scoggins; they didn't just talk about raiding; they talked about the deal, and as an example, here is an answer by Bill Edwards -- I believe I asked him this question, I said, all right, what did Scoggins say? Answer: Scoggins was pleading with him to get tough -- that is, with Stephens; grocery store man was pleading with the police officer to get tough. I had told Scoggins and I told Stephens that if collections didn't come up over there that they were both going to have to go.
1632]

Now what collections are police officers supposed to be making that are legitimate -- the evidence is in the record. Of course Mr. Hunter comes in, he takes the stand, and you will recall his testimony; I went over that earlier. Mr. Page makes a big point out of why we didn't call certain witnesses, why we didn't ask certain questions -- this thing about Hirrlinger having a heart attack I think is inaccurate, or on the stand -- it is astounding to think that they ever let up on any of those witnesses; you stand here, and watch them for days. Mr. Page

testified he was handcuffed and held back -- can't you visualize that? Now he defied me to state why the Federal Government hadn't raided McAfee -- if the Court please, may I answer that?

The Court: No, that wouldn't be proper.

Mr. Crawford: Now, Mr. Page, -- Mr. Page also said when Hirrlinger took the money to McAfee there was no conversation, people around. He didn't say that. He said more; I think you will recall it; he showed his mental attitude at the time, he said, he laid it down on the desk, and he said, don't spend it all at one place. Then they took him over on cross-examination. They tried to elicit some statement out of him that the room was not enclosed. You remember Hirrlinger was puzzled, it was enclosed except for a door, he said, that's right. What in the world that accomplished I don't know. But the man's
1633] memory was accurate and he did say something when he gave that money to Johnnie McAfee -- and remember, part of that money, that $204, that was laid down there at the American Billiards, down here around the corner, by Charles Hirrlinger, on the desk, and McAfee -- that money there came from profits in the illegal whisky business -- part of it did. The evidence shows that the other part came probably from gambling activities, because Hirrlinger testified he had picked up some money from Dale Hines, and McAfee got part of that money; it was all thrown into a pot and split up. So, Hirrlinger and McAfee did receive actual cash from this whisky operation. Not that that is necessary to put him in the conspiracy; you don't have to be a bootlegger to be in a whisky conspiracy. But nevertheless, he did actually receive it under this evidence, and it is undisputed.

Now, we come up to Mr. Ungerman's statement to the jury, and he states a few things about Cole, Jackson and Harp, about the evidence against them. Well, actually, practically everything that was introduced in this case, and if the Court will permit you to consider it under his instructions in arriving at your verdict, is evidence against Cole, Jackson and Harp. It wouldn't work without their cooperation and their knowledge, it was impossible. The circumstantial evidence is overwhelming I think. They were the three white raiders; they were the ones who raided or didn't raid. And where did all these license
1634] numbers go that Edwards was turning over to Gott, four or

five times a week; they had to go to Cole, Jackson and Harp because they were the raiders, and it was the policy -- that fact is established, it was the policy of the Police Department at that time for only the raiding squad to raid. And who was the raiding squad; who were the raiding squad members? Cole, Jackson and Harp.

There is one other very interesting thing that Mr. Ungerman said when he was quoting from the record about Marshall Sharp; he said, when they went out there, Marshall Sharp told Jackson, I don't want to be the goat for the whole neighborhood. Let's analyze that. Marshall Sharp testified, who else was in his neighborhood, John Hood, two blocks away, and over in the other block, Jackie Hood; that was the neighborhood they were paying off, so John Hood was the goat. I mean, Marshall Sharp was the goat for the whole neighborhood; that is what he meant by that undoubtedly -- got tired of being raided, so much, didn't want to be the goat for the whole neighborhood. If Jackson hadn't known what the situation was, wouldn't it have been ligical, he would have said, what do you mean by the goat -- what do you mean by that; and Mr. Ungerman, his attorney, just said, he answered and said, I don't know anything about it -- which indicates he did know something about it or he would have asked a question about it.

1635] Now there has been a great deal of controversy over what happened here between Bruner and O'Neal. I think the record is very clear. Bruner testified on direct examination by me that he saw money pass to Johnnie Cole -- I mean, from Chancey Jones to Johnnie Cole, up here at Cain's Academy, Christmas in 1956. I grant you there is a dispute about whether somebody is in uniform or whether he wasn't, by the two different people, but that certainly is to be expected once in a while, in a case as long as this one, where people are telling the truth. It would be more damaging if everybody said everything that coincides with everybody else. There are inconsistencies, obviously, but it always happens when the truth is being told. There is lack of recollection on certain dates, by Edwards, Hirrlinger, and things like that, but that is to be expected, and it actually proves the truth, but Bruner testified he saw money pass by Chancey Jones to Johnnie Cole, and on cross-examination Mr. Ungerman finally elicited the fact that it could have been play

money. Well, the man being under oath, it may be just like me asking you, is that real money or play money, putting you on oath to answer it. He was forced to say he had not examined it, he wasn't sure, until when he took the stand; what did he say? He said, he saw something pass, but he wasn't sure what it was. Mr. Ungerman comes in and tells you, makes this statement, which is not in the record, that there was a fight or something between Cole or I mean between Bruner and O'Neal,
1636] about their testimony. And that type of thing, which is not there. I think he asked Mr. O'Neal, was this -- and he is -- he was -- he took the stand after Mr. Bruner, -- did you have words with Mr. Bruner over whether it was money or not. You may remember the use of that, did you have words. They apparently had some argument, but there wasn't anything from that testimony to indicate coercion or interference with the person's testimony as they would have you believe, by that type of argument.

Now one other thing, too, he went into this Ben Bly thing, you remember the second time Ben Bly took the stand, the second time he took the stand when we called him back and put him on there to explain it, he wasn't even talking about it -- there wasn't one question asked him -- about it the second time. Mr. Hickman said, I couldn't dispute what he said -- unfortunately I am compelled to do that. He said, If the police did no more than turn their face the other way, and let this go on -- and this is as inconsistent with the record as any statement I have heard yet -- there was Paul Livingston out at the meeting, conducting the meeting, leading the group, and certainly he just didn't turn his face the other way; there is a meeting with Edwards, with Hirrlinger in the group there; there they are dividing up the spoils, and the profits, participating -- raiding those that don't pay, leaving those alone that do, -- as was testified, tipping them off -- when they are going to be
1637] raided, tip them off ahead of time, leave a little whisky around for them to get.

Now this indictment is brought in the name of the United States of America. I think it is something to be very proud of. And the first count has undoubtedly been established by the evidence. There are allegations in there with regard to the violations of the section that prohibits importation, -- It

says, by importing into Oklahoma assorted tax paid liquors containing more than four per cent of alcohol by volume, which liquors were not accompanied by permits or licenses, as required by the laws of the State of Oklahoma, -- Mr. Hickman said you could not obtain those permits to import whisky, which was stipulated to, and then also, about the four per cent alcohol, that was stipulated to, so that is proved, whether or not the liquors were imported into Oklahoma otherwise than in the course of continuous interstate transportation. We have established that certainly beyond a reasonable doubt. This is where it was set down; this was where it was sold. It came in here; it wasn't going to Mexico.

Now on the overt acts, the court has instructed you it is only necessary for us to prove one. I think there is no question but that we have proved seventeen. Commencing with overt act No. 4, that is the date that Hirrlinger and Jones and Bill Edwards met out there on March 30. No. 5, the meeting out there where they delivered $700 to Jay Jones, and right on down the
1638] line. Some of these payments in here, here is No. 8, that the payment made during April by Bob Massey, to Bill Massey, his brother, you remember Bill passed it on to -- Bill Massey to Bill Edwards, -- five to twelve have been proved, and thirteen to nineteen, insofar as the Government's posftion is concerned, so there is sufficient acts there. Then we come over to Count 2 which charges conspiracy to carry on the business of a wholesale or retail liquor business here without paying any special tax. Now let's get that straight here -- testimony has been that those who paid the tax had permits to do business, any more than income tax is a permit to make an income; it is the tax; if you do business you pay the tax; it doesn't make it legitimate; the Federal Government passes laws that cover forty-eight states. The Oklahoma law, it doesn't nullify all the Federal tax laws. Fortunately we have such a statute in this case, and the wholesale aspect of Cout 2 is under this evidence all that is necessary; it says it is apparent that in order for the conspiracy to operate there had to be wholesale sales by Bill Edwards at least and by Martin Edwards at least, and they all conspired with them about it. Bill Edwards testified it was ninety-nine per cent of his business, selling to other liquor dealers, so on the wholesale aspect alone, the evidence is sufficient to return a verdict of guilty as to each of them because they conspired

1639] together, and each one is held responsible for the others' acts in the conspiracy, as I am sure the Court will instruct you. The retail is the same way: John Hood operating for years never even had a tax stamp. Those tax stamps will be in the exhibit there. But there isn't much question about that these counts have been established under the evidence as to each of the seventeen remaining defendants.

Now actually there isn't much that is much more powerful than the truth and sometimes there isn't much but strangeness. But it has been a strange and disgusting story. But it has been told by truthful witnesses, as evidenced by the reluctance, every reason in the world except possibly Bill Edwards, not to testify, and he told the truth -- no motive at all by the rest of them. I want to ask you that you not let the truth fall dead in the streets. I think that I perhaps should recall for your memory a statement made by Jesus in the Sermon on the Mount, where he was talking I think along the lines about, Beware of False Prophets, you know, a sheep in wolf's clothing and wolves in sheeps' clothing, he went on to state that a corrupt tree, I believe, could not bring forth good fruit, and a good tree could not bring forth corrupt fruit. And he said in there in one place that By -- Therefore by their fruits ye shall know them. And you have seen during the past few days the fruits of these defendants, and it is by those fruits that you should know them.

1640] Now I come now to the realization that I have done all I can do and hereafter it is going to be up to you. I want to remind you that the victories for the United States are not won only on the battlefield; many times they are won right here in these jury boxes.

May God bless you all!

1641] The Court: It now becomes the duty of the Court to give you the instructions which are intended to assist you in arriving at your verdict in this case.

1642] Now if there are people in the courtroom that want to leave, you may do so at this time but I want to stop all traffic

in and out of the courtroom while these instructions are being given.

The indictment returned by the grand jury in this case consists of two counts. In the first count the charge is made that the defendants, from on or about January 1, 1948, until on or about February 21, 1957, in the Northern District of Oklahoma, and elsewhere, unlawfully, wilfully, and knowingly conspired and agreed with each other and with twenty-one other named persons not on trial, and other persons whose names were unknown to the grand jury, to commit offenses against the United States by wilfully importing intoxicating liquors into the State of Oklahoma.

It is further charged that the defendants committed some thirty overt acts, to effect the objects and purposes of the conspiracy, which have been sufficiently explained and referred to by counsel, and need not be repeated; and furthermore you will have a copy of the indictment with you in the grand jury room for your examination.

Now Count 2 contains essentially the same charge of an unlawful conspiracy entered into by the defendants and others, except that it is alleged that the purpose of the conspiracy was to commit offenses against the United States by carrying on the business of wholesale and retail liquor dealers and wilfully failing to pay the special taxes required by the Internal
1643] Revenue laws of the United States. It is further asserted in Count 2 that the same thirty overt acts described with particularity in Count 1 were committed by defendants in pursuance of the conspiracy and to carry out the objects and purposes thereof.

While the indictment is separated into two counts, it alleges only one conspiracy to commit offenses against the United States. Count 1 charging that it was part of the conspiracy that defendants would wilfully import intoxicating liquors into Oklahoma, and Count 2 charging that it was part of the conspiracy that defendants would engage in the business of wholesale and retail liquor dealers, and wilfully failed to pay the special taxes required by the Federal law.

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The defendants have each entered a plea of not guilty, thus putting in issue the charges made in the indictment, and placing the burden upon the Government to establish the accusations made by the required degree of proof.

The elements of the offenses charged in both counts of the indictment are, 1, the act or acts of the defendants in wilfully conspiring together to commit an offense or offenses against the United States as heretofore detailed; and, 2, the commission or performance of one or more of the overt acts charged in the indictment.

It is enough, as respects overt acts charged, if it
1644] appears from the evidence by the required degree of proof that any one of the overt acts committed -- was committed as alleged in the indictment for the purpose of effecting the objects of the conspiracy. For two or more persons to conspire, confederate, or band together to commit or cause to be committed a breach of the criminal laws of the United States, is an offense of grave character which involves not only a plot to subvert the law, but also the preparation of the conspirators for further criminal practices. It is almost always characterized by secrecy, rendering detection difficult, and requiring much time for its discovery. Because of this, the Congress has enacted legislation which makes a conspiracy to commit a crime a distinct offense from the crime itself. In many respects, the matters involved in the two counts of the indictment are the same. This is a matter for the Court to consider in fixing the punishment in the event there should be a verdict of guilty, but it is not for the jury to consider in determining guilt or innocence.

Where two or more act together to accomplish something unlawful, a conspiracy is shown, even though there be no direct evidence of an express agreement. The agreement is generally a matter of inference, deduced from the acts of the persons accused, done in pursuance of an apparent criminal purpose.

It is not necessary that all conspirators be acquainted
1645] one with another. It may be that they have not been previously associated together. One conspirator may only know a few of the others. But where one who knows that others

are acting together to violate the law, intentionally cooperates to further the object of the conspiracy, he becomes a party to it.

When men enter into an agreement or conspiracy to accomplish an unlawful end, they become agents for one another, and the act of one, in pursuance of the common purpose, is deemed to be the act of all, and to make all responsible for that act.

Any party coming into a conspiracy at any stage of the proceedings with knowledge that the illegal conspiracy is in operation, becomes, under the law, a party to and responsible for all acts done by any of the other parties either before or afterwards, in furtherance of the common design. One who joins such a conspiracy adopts for himself, and makes himself responsible for, all that preceded, as well as what is done during his personal participation.

As you have been heretofore advised by the Court, the evidence presented by the Government is not deemed to be sufficient to meet the required degree of proof that the defendants, or any of them, entered into the alleged conspiracy on or about January 1, 1948. The evidence does not tend to prove the existence of the alleged conspiracy until about March 1956.

You are instructed therefore that all of the evidence
1646] presented by the Government pertaining to acts or transactions occurring during the period from January 1, 1948 to about March 1956, should be completely disregarded, and given no consideration whatever in arriving at your verdict, except as to certain evidence to be referred to later in these instructions.

If you find from the evidence by the required degree of proof that the conspiracy alleged in Count 1 was wilfully entereed into by the defendants on or about March 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the objects of the conspiracy, and after the inception thereof, then you should find all defendants who were members of the conspiracy guilty as charged in Count 1 of the indictment.

If you find from the evidence by the required degree of

proof that the conspiracy alleged in Count 2 was wilfully entered into by the defendants on or about March 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the conspiracy, and after the inception thereof, then you should find all defendants who were members of the conspiracy guilty as charged in Count 2 of the indictment.

Any person who imports -- brings into, or transports any intoxicating liquor into the State of Oklahoma otherwise than in the course of continuous interstate transportation through the state, or attempts so to do, or assists in so doing, commits an offense against the United States.

1647]

You havebeen repeatedly, of course, advised in the course of the trial, that this law was not in effect during an approximate four-year period from April 1947 to April 5, 1951.

One who engages in the business of a wholesale liquor dealer is required by Federal law to pay a special tax. A wholesale dealer is required to file monthly what is known as a form 52-A, showing whom he purchased liquor from, and a form 52-B, showing the names of the persons to whom he sold liquor in wholesale quantities during the previous month.

The wholesale liquor dealer is defined by law as a person who sells or offers for sale distilled spirits in quantities of five wine gallons or more to the same person at the same time. And if a dealer in liquor accepts an order for five wine gallons or more or distilled spirits, and the order is filled, and delivery is made in parcels of less than five wine gallons, and on different dates, nevertheless a transaction has been made in a wholesale quantity.

The words of the statute, "to engage in the business," imply an element of continuity, and habitual practice. It means more than the performance of a single disconnected business act. The making of a single sale is not in itself engaging in the business. Evidence of a single sale is to be interpreted by you in the light of all of the circumstances, and it may vary from being little or no evidence up to a point of being convincing evidence that the seller is carrying on the

1648]

business. And one who engages in the business of a retail liquor dealer is required by special law to pay a special tax.

Mr. Hickman: That is, Federal law, Your Honor.

The Court: Yes, Federal law. Liability is imposed for the payment of the special tax by both retail and wholesale liquor dealers at each and every place where distilled spirits are sold, and offered for sale. A tax stamp is issued to such dealer, evidencing the payment of the special tax, and specifying the name or names of persons engaged in the business, and the address at which the business is to be carried on.

The indictment returned by the grand jury in this case is not evidence in any sense, but constitutes only the accusations made against the defendants which it is encumbent upon the Government to sustain by the proper measure of proof. Each defendant in this case is presumed at the outset to be innocent, and this presumption exists in his favor and abides with him for his proper protection at every stage of the trial until his guilt is established by the evidence beyond a reasonable doubt.

By "a reasonable doubt" is not meant a possible or theoretical doubt, but such a doubt arising from the evidence, or from a lack of evidence, as leaves your mind in such a state that you cannot say that you have an abiding conviction to a moral certainty of the guilt of the accused. If this is
1649] the state of your mind you should acquit. However, if after due consideration of all of the evidence you can say that you have an abiding conviction to a moral certainty of the guilt of a defendant, then you should return a verdict of guilty.

It is for the Court to state the principles of law which are applicable and to decide all questions with respect to the admission and or rejection of evidence. The jury are the sole judges of the issues of fact and of the real truth of whatever is involved in those issues.

It is also the province of the Court to assist the jury insofar as this can be done by referring to subsidiary questions of fact and to evidence bearing upon them. But the jury should

regard all expressions by the Court in this connection as made for the purpose of aiding the jury, and not of directing it. If the Court's expressions are not in accord with the jury's understanding of the evidence, or its reasonable import, they are to be rejected, and effect is to be given to its own understanding of the evidence. In the last analysis you are the sole and exclusive judges of all questions of fact.

The testimony of an accomplice or co-conspirator may be admitted in evidence, and if the jury considers him credible and his testimony worthy, they may give it weight accordingly. But the fact that he is an accomplice, or a co-conspirator suggests that his testimony be examined with care. The same thing is true of the testimony of one who has been con-
1650] victed of a serious public offense. The fact of his conviction does not of itself require that the -- the exclusion of his testimony but it does suggest that it be examined with care and caution. If it be found worthy, it should be given weight accordingly.

And I think I have reached a point here where I will make a comment to the jury -- the only comment to the jury that I expect to make on the evidence has been presented in this case. And I'm going to start out by directing my remarks to the testimony of Bill Edwards who was called as a witness on behalf of the Government. Everybody else has talked about him so I suppose the Court should too.

The witness Edwards was by his admission a co-conspirator. The testimony was that he was involved in the conspiracy and was one of the leaders. His testimony discloses that he had been convicted of serious public offenses. So the instruction just given applies to his testimony in both respects; it should be examined with care and caution. In addition, he testified he would be pleased if some of these defendants were convicted and should be required to go to the penitentiary. So, as has been argued by some of counsel for defendant, in giving consideration to his testimony it should be considered that he testified that he was to some extent motivated by hate and a desire for revenge. I think the evidence suggests the possi-
bility that Edwards may have felt that it would be help-
1651] ful to him from the standpoint of getting back into the

whisky business if some of these defendants or all of them were convicted.

Now those are things -- all things which may properly be considered in determining what weight you will give to his testimony. But there are other things that should be considered too, and which I think I might properly direct your attention to.

In the first place, his testimony was corroborated in all substantial details by a large number of witnesses. The first one that I will call attention to who corroborated his testimony in very many details, many of the very important details, was the witness Hirrlinger. Hirrlinger likewise branded himself by his testimony as a co-conspirator, and so you should, as I have admonished you. weight his testimony with care. But I am under the impression from my observation of the witness that he was a rather reluctant witness. There has not been suggested to my mind any motive of hatred or revenge that might actuate Hirrlinger to testify falsely in this case. By the testimony that he gave he of course incriminated himself, which I would expect a witness to be somewhat reluctant to do.

Edwards was corroborated by a number of other witnesses. The Massey brothers corroborated Edwards testimony with reference to payments. Some of the payments that were made
1652] from time to time, -- I won't attempt to go into the details -- you will remember that.

Archie Moore was a witness called by the Government who corroborated the testimony of Bill Edwards in a number of different respects. Bill Curlee -- Bill Curlee also a co-conspirator by his own admission, and whose testimony should be examined with care, corroborated the testimony given by Edwards. Ben Bly, about whose testimony there has been considerable discussion -- Ben Bly is another witness who corroborated the testimony of Bill Edwards in a number of respects. I have some notes here on Bly's testimony. He testified that he made two different payments to Edwards, one, $100; another, $200. And then he testified that he had a conversation with Martin Edwards in June and Martin Edwards told him that he was taking over, and he paid Martin Edwards $200 on June 4, and paid him $200 each week -- I mean, each month, until January of 1957.

Now these men of course are all -- all bootleggers. But you have, and must have in mind I think, in weighing this testimony, and I am sure that you will, that the Government has to take these witnesses where it finds them. And the leading citizens of the community are not those who would likely be in position to possess information about the matters concerning which they have testified.

1653] And then there is another thing that should be taken into account in weighing the testimony of Bill Edwards, and in determining what weight and credit that you will give to it, not only his testimony but that of Hirrlinger and that of others whose names I have mentioned, that the testimony of those witnesses, as I recall it, is wholly uncontradicted and undisputed.

There is one other witness who corroborated to some extent the testimony of Bill Edwards and that was Officer Carter. He is one that occurs to me that you will recall that he testified about, he was a member of the raiding squad and testified about conversations had with the defendant Gott, pertaining to the question of whether he would remain a member of the raiding squad. Of course Officer Carter was not a co-conspirator and had not been connection with any criminal offense of any character.

And, I want to say this, too, -- I think I should do it in fairness to officers Carter and Bruner: When Archie Moore was on the witness stand and was being cross-examined by one of counsel for the defendants he was asked if he had ever bought any whisky from Officer Bruner. He said that he had not. He was then asked if he had ever bought any whisky from Officer Carter. He stated that he had not. I requested counsel to indicate to the Court whether he would produce any evidence -- whether he had any information which would lead to evidence, or produce any evidence tending to indicate that either offi-
1654] cer Carter or Bruner had ever sold any whisky. And of course there has been no evidence presented which would remotely suggest that any one, or either of those officers is guilty of any such offense. And I feel that the Court -- not that it has any bearing on the case; it does not -- but I feel obliged to make the statement in fairness to those two officers.

You are instructed that where it appears that any witness has wilfully testified flasely respecting a material matter the jury may reject his testimony in its entirety, except as it finds corroboration or support in other evidence. And a defendant in a criminal case has an unqualified right to testify or not testify at his descretion. The fact that the defendants did not take the witness stand must not be considered by you as any admission of guilt. No inference of any kind can be drawn against any defendant by reason of his failure to testify in his own behalf.

The Government relies to some extent upon circumstantial evidence to prove the alleged conspiracy, and the participation by the defendants therein. And such circumstantial evidence may properly be considered and relied upon by the jury. But as to each defendant, the circumstantial evidence relied upon must be completely inconsistent with innocence, and must exclude every other reasonable hypothesis except that of guilt.

1655] The evidence presented by the Government -- now I come to the exception with reference to this eveidence, in the record, prior to March 1956: The evidence presented by the Government pertaining to the importation of liquor from Missouri into Oklahoma during the period from April 5, 1951, to on or about March 1956, the date upon which the defendants are charged with having entered into the unlawful conspiracy, and the evidence pertaining to the carrying on of a liquor business by some of the defendants during the same period, and wilfully failing to pay the special tax required by Federal law, may properly be considered by you but only for a limited purpose. It may be considered only in connection with the question of an intent of the defendants in determining whether the defendants intentionally and wilfully conspired to commit offenses against the United States during the period from about March 1956 to on or about February 21st, 1957.

You are instructed that the police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation Act or the Internal Revenue laws of the United States. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose of aiding in the enforcement of Federal

laws pertaining to the transportation and sale of liquor would not be sufficient to prove a conspiracy upon the part of such officers to violate those laws. But, if such police officers enter into an agreement to aid and assist others in
1656] carrying on the liquor business and knowingly and intentionally cooperate with others in the importation of liquor into Oklahoma in violation of Federal law, or aid and assist others in carrying on the business of either a wholesale or a retail liquor dealer, and wilfully failing to pay the special tax as required by Federal law, then such police officers do commit an offense against the United States.

The objects of a conspiracy may be numerous. Some may involve violation only of State law and some may even be innocent -- but if one of such objects be to violate a criminal law of the United States, the case falls within the condemnation of the Federal conspiracy statute.

You should give careful consideration to the evidence in the case as it pertains to each defendant on trial for the purpose of determining whether you are convinced beyond a reasonable doubt as to the guilt of that particular defendant as to each of the two counts of the indictment. As to each defendant on trial you may find him guilty on both counts of the indictment, not guilty on both counts of the indictment, or guilty on one count and not guilty on the other count of the indictment.

You are the sole judges of the credibility of the witnesses and of the weight and value that you will attach to their testimony. In determining what weight and what credit that you will give to the testimony of the various witnesses you
1657] should of course take into account all of the things that I have heretofore advised you about. In addition, you should consider the demeanor of the witness upon the witness stand, his apparent candor or lack of candor, his interest if he manifested any in the outcome of the trial, and, of course, you must rely in great measure upon your own good sense, common sense and judgment as men and women of affairs. Your verdict in the case must be unanimous. All must agree upon the verdict -- all must concur in it.

The first thing you should do when you go to the jury room is to select one of your number to serve as foreman, and preside over your deliberations.

When you have agreed upon a verdict, only the foreman needs sign it, and when you have agreed you may advise the bailiff and I will be in attendance, and then you will be brought into Court.

You are further advised that your sole responsibility is to determine the question of guilt or innocence. The matter of a penalty to be imposed or punishment to be inflicted is the sole responsibility of the Court.

If there should be a verdict of guilty then it becomes the duty of the Court to determine what would be a proper punishment.

The Clerk has prepared a form of verdict, one for your
1658] use with respect to each of the seventeen defendants who are on trial.

Mr. Ungerman: Judge, in reading the instructions you inadvertently left out one small paragraph on page 6.

The Court: Did I?

Mr. Ungerman: Page 6, -- the short paragraph.

(Thereupon Mr. Ungerman and Mr. Shortridge conferred with the Court at the Bench.)

The Court: Yes, I believe I did omit one sentence -- I am sure I did.

After I gave you the instruction that each defendant in the case is presumed to be innocent until his guilt is proved beyond a reasonable doubt, you are further advised that the burden of proving guilt rests upon the Government, and must be sustained by evidence which demonstrates the guilt to you beyond a reasonable doubt.

You will now -- did I overlook anything else?

Mr. Crawford: No, sir. I take it from the conversation this morning you prefer to wait --

The Court: Yes. Now I would like for the jury to retire and just be at ease in the hallway -- don't go to your jury rrom as yet; as a matter of fact we are going to have to move some furniture in there for you before you will have a place to be seated, -- move these tables back in there. But I want you to wait in the hallway until counsel have had an opportunity to make a record here on these instructions, and to note
1659] any exceptions or objections they care to have noted; and I may want to change some, I'm not sure, but at any rate, you wait and you will be brought back in just briefly before you go to the jury room.

Now let me tell you this, too: Now if you don't arrive at a verdict by say somewhere around 6, 6:16 to 6:30 the Marshal will take you to dinner and then you will resume your deliberations for a period of time this evening.

Now the alternates -- I appreciate the fact that you gentlemen have been with us throughout the case. You of course won't go to the jury room to participate in the decision in the case, but yours was an important service anyway. We might very well have had to call upon one of you. So you will be excused at this time -- in other words, you are the fifth wheel; you have turned out to be.

All right, you may leave the courtroom.

Let me say to the alternate jurors, please don't discuss this case with anyone until a verdict has been returned in the case.

(Thereupon the jury retired from the courtroom, and thereafter the following proceedings were had to-wit:)

Mr. Ungerman: If the Court please, --

The Court: Please be as quiet as possible, Court is in session. You may go on out of the courtroom if you like, but

1660] not with any more noise than necessary.

Mr. Ungerman: On the bottom of page 5, Your Honor has instructed the jury that one who engages in the business of wholesale liquor dealer is required by Federal law to pay the special tax, period. A wholesale dealer is required to file monthly what is known as form 52-A showing who he purchased liquor from, and a form 52-B showing the names of the persons to whom he sold liquor in wholesale quantities, during the previous month.

We desire to except to the giving of that instruction for the reason that that in itself is a separate offense under the Internal Revenue Code, and the indictment no where charges the failure to file forms 52-A and 52-B.

On the top of the next page the instruction was given, a wholesale liquor dealer is defined by law as a person who sells or offers for sale distilled spirits in quantities of five wine gallons or more, to the same person at the same time, period. If a dealer in liquors accepts an order for five wine gallons or more of distilled spirits and the order is filled and delivery is made in parcels of less than five wine gallons, and on different dates, a transaction has been made in a wholesale quantity.

The defendants and each of them desire to except to the giving of that instruction for the reason that it is our humble opinion that that is not a correct statement of the code.

1661] Your Honor gave the following instruction: The evidence presented by the Government pertaining to the importation of liquor from Missouri into Oklahoma during the period from April 5, 1951 to on or about March 1956, the date upon which the defendants are charged with having entered into the unlawful conspiracy, and the evidence pertaining to the carrying on of a liquor business by some of the defendants during the same period, and wilfully failing to pay the special tax required by Federal law, may properly be considered by you, but only for a limited purpose. It may be considered only in connection with the intent of the defendants in determining whether the defendants intentionally and wilfully conspired to commit an offense against the United States during the period from about March 1956 to on or about February 21, 1957.

The defendants and each of them separately and jointly desire to except to the giving of that instruction for the reasons that the conspiracy, if any, as set forth by Your Honor in previous statements did not start until March -- latter part of March 1956; and therefore any act previous to that time under our theory of the case is immaterial.

Now, Your Honor, on the next page gave the following instruction; you are instructed that police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation
1662] Act, or the Internal Revenue Laws of the United States, period. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose in aiding in the enforcement of Federal laws pertaining to the transportation or sale of liquor would not be sufficient to prove a conspiracy on the part of such officers to violate such Federal laws, period.

Then Your Honor goes on and states, but, if such police officers enter into an agreement to aid and assist others in carrying on the liquor business and knowingly and intentionally cooperate with others in the importation of liquor into Oklahoma in violation of Federal law, or aid and assist others in carrying on the business of either a wholesale or retail liquor dealer and wilfully failing to pay the special tax as required by Federal law, then said police officers do commit an offense against the United States, period.

We desire to except to that instruction for the reason that in this latter portion of the instruction the Court has I believe unintentionally emphasized and set out the fact that the mere carrying on of the liquor business in Oklahoma would be a part of a conspiracy whereas the act that is charged against the defendants is wilfully carrying on -- engaging in the wholesale or retail liquor business without having procured and paid the special tax as required by law. And we feel that that is a confusing --

1663] The Court: What page is that?

Mr. Ungerman: That is on next to the last page -- that that is a confusing instruction.

The first paragraph on the next to the last page, the long one at the top of the page, the first sentence is -- the first two sentences, I might say, are perfect as far as I am concerned, but getting down to the eleventh line there --

The Court: I say, but if such police officers enter into an agreement to aid and assist others in carrying on the liquor business, and knowingly and intentionally cooperate with others in the importation of liquor into Oklahoma in violation of Federal law or aid and assist others in carrying on the business of either wholesale or retail liquor dealer, then they commit an offense against the United States.

Mr. Ungerman: I feel that it is confusing, to this extent, that perhaps unintentionally that is given the effect that the carrying on of the liquor business is a violation of Federal law, and that is not a violation of the Federal law; it only becomes a violation of Federal law --

The Court: Well, I just don't think that is what it says. I don't think it is confusing.

Mr. Ungerman: I'm not going to argue that, Your Honor; you gave it; give us an exception.

The Court: All right.

Mr. Ungerman: The next paragraph, Your Honor, states
1664] that the objects of the conspiracy may be numerous. Some may involve only violation of State law. Some may even be innocent, but if one of the objects be to violate a criminal law of the United States, the case falls within the condemnation of the Federal Conspiracy Statute.

We desire to except to that for the reason that the violation of State law in itself could not be conspiracy, to violate the Federal Act as I understand it.

Now that goes to the instructions given that we had not previously been furnished copies of. For the purposes of the record, the defendants and each of them jointly and separately except to the Court's failure to give defendants' requested instructions Nos. 1 to 29, inclusive, as requested.

Now if Your Honor please, the defendants and each of them except to the Court's comment given by Your Honor relative to the testimony of officers Carter and officers Bruner relative to the interrogation of Archie Moore pertaining to purchases by Moore from Carter and Bruner. Because Your Honor has made a specific statement that no evidence was presented to contradict that testimony. We feel that under the law that the -- and the constitutional guaranties to these defendants, that we are not required to put on any evidence whatsoever and we feel that the giving of that particular comment is highly prejudicial to the rights of the defendants.

That's all I have.

1665] Mr. Shortridge: If the Court please, the defendants and each of them respectfully object to and except to the Court's charge in the following additional particulars: I feel that the Court's remark with regard to Mr. -- officer Bruner and officer Carter, as stated by Mr. Ungerman is an unfair comment upon the defendants' failure to produce evidence or witnesses. In all there is no showing that such witnesses would have been more valuable to the defendants than to the Government.

The Court: Well, the purpose of that statement to the jury was more to reprimand defense counsel for asking improper questions in trying to suggest possible criminal conduct by a witness with no evidence to justify the propounding of the question. There was no comment made with reference to the failure of the defendants to take the witness stand. As a matter of fact the comment that I made was rather restrained under the circumstances. I might properly have gone much farther, and was rather tempted to, because I quite disapprove of tactics of that character.

Mr. Shortridge: With the Court's permission I would like to make just a little additional record.

The Court: All right.

Mr. Shortridge: Also the defendants jointly and severally except to and object to the Court's charge, which is in conflict and is contradictory in some respects, namely, the Court has

1666] charged in one instance that a person is guilty in a conspiracy because if it does anything to intentionally further the purpose of the conspiracy, and then as I understood the charge you stated that if one of the defendants did anything with knowledge of the conspiracy, he was guilty and I believe the latter part, doing something with knowledge of the conspiracy is not sufficient to convict any defendant.

Further than that, I think it places an unreasonable burden upon the defendants and the defendants jointly and severally object and except to the portion of the charge that the defendants are responsible for the acts of the other alleged conspirators when they are in or out of the conspiracy, because as I understand the law, and I may be wrong, the responsibility is for the conspiracy and not for the acts. Also I do not feel that the Court's charge properly negatives the exceptions to section 1252 of Title 18, United States Code, which is the liquor importation law. And it seems to me -- and in this respect all the defendants jointly and severally join, and in all respects are making up this record, that the testimony concerning Edwards' corroboration by a large number of witnesses and then the naming of seven, might be prejudicial and is prejudicial, because the word "large" over emphasizes when there are only seven mentioned.

And we take the further exception and objection to the Court's expression of his own opinion as to the Hirrlinger testimony. And we take the -- and the defendants further
1667] jointly and severally object and except to the Court's statement that the testimony was uncontradicted, because it could be construed and reasonably understood by the jury as a comment upon the failure of the defendants to take the witness stand. And it is inconsistent and I don't believe it is saved by the Court's instructions with regard to the right of a witness not to take the -- the right of the defendants, pardon me, not to take the stand.

The Court: Any other?

Mr. Page: If Your Honor please, I believe that you advised all through the course of the trial and then yesterday when we were going over the possible instructions that you would

give an instruction respecting gambling, that it wasn't an offense against the Government.

The Court: Well, there was no requested instruction to that effect.

Mr. Page: Well, I didn't -- I thought it was in those; and we did discuss it yesterday and you made the --

The Court: Well, I have given the jury that instruction so many times -- I thought I had --

Mr. Page: Well, I understood that you were going to cover that in your instructions from the very beginning, but as you say --

The Court: What kind of an instruction would you like?
1668] What kind of an instruction would you like for me to give them?

Mr. Page: Merely what you have been giving them during the course of the trial, that gambling in itself is not to be considered an offense against the laws of the United States Government, and that any reference to it --

The Court: Do you suppose it would help any for me to tell them that again?

Mr. Page: I don't know if Your Honor please, but I just understood you were going to give it.

The Court: That's the only reason I didn't. And there was no requested instruction to that effect. If you urge it I will call them back in and tell them again; it is my feeling that it has been gone over so many times that it is wholly unnecessary but of course it is true, and if you want me to tell them again --

Mr. Page: Well, if the Court doesn't feel that it is necessary, I mean, because of the --

The Court: That's the only reason I didn't do it; I

felt that I placed great emphasis upon it --

Mr. Page: Yes, sir. Well, I just wanted to call it to the Court's attention and wondered if you had overlooked it.

The Court: Then I suppose you gentlemen approve of my instruction on the presumption of innocence, don't you?

Mr. Malloy: It could have been a little stronger here
1669] and there, and repeated more often.

The Court: Is there anything further?

Mr. Shortridge: Could I, for all the defendants, make one other request?

The Court: Yes.

Mr. Shortridge: So as to make a little more record. For the reasons heretofore stated with regard to the Court's comments upon the failure to contradict, or the fact that the evidence was not contradicted, the defendants jointly and severally at this time request that a mistrail be declared and the jury discharged.

The Court: All right, have the jury come back in, Mr. Scott.

(Thereupon the jury was returned to the jury box, and thereafter the following proceedings were had to-wit:)

The Court: The proper record has been made by counsel on the instructions and I have no further instructions to give.

And you may now retire with the bailiff and make up your verdict. You may have all of these exhibits with you in the jury room, and a copy of the indictment.

Now these instructions are complicated and they are lengthy. It just isn't humanly possible for you to remember all of the

points covered and everything that the Court has said, and if you have any disagreement about what the Court instructed you with reference to any particular point, any matter that
1670] you feel that you want to have cleared up, you feel perfectly free to advise the bailiff that you want to come back into the courtroom for further clarification of instructions. I will be glad to try to help you.

That's all.

(Thereupon, and at 4:40 o'clock P.M., April 25, 1957, the jury began its deliberations; and thereafter, and at 6:03 P.M., on the same date, to-wit, April 25, 1957, the jury returned to the courtroom, and the following proceedings were had to-wit:)

The Court: The jury hasn't as yet agreed upon a verdict I take it?

The Foreman: No, sir, we haven't.

The Court: Do you want to be excused now, that is, are you ready to go and have dinner?

The Foreman: We are ready to go, Your Honor, but we would like to have some further instructions from you because there seems to be some doubt in some of the boys' minds about the first and second counts of the indictments. I wish you would go back and explain that again, if you will. It seems as though --

The Court: Now, don't tell me what your discussions have been -- if you will just indicate what particular part of the instruction you want me to explain I will be glad to do that.
You want me to explain to you the difference between the
1671] first and second counts?

The Foreman: Yes, sir, I wish you would go through that and, because of lack of evidence against Mr. Bulloch --

The Court: Wait a minute --

The Foreman: Oh, pardon me.

The Court: Don't say anything to indicate what your discussions have been, don't you see; just ask for information that you want.

The Foreman: I would like for you to give us the difference between the two counts, and explain the two counts again if you will, sir.

The Court: All right, I have a question in my mind about whether to do that orally, or read portions of the instructions heretofore given. Do you agree that I may undertake to explain orally -- any objection to that?

Mr. Crawford: We have no objection.

Mr. Shortridge: No, sir.

The Court: I think maybe if I get away from the script I can make it a little clearer. At least I will try to.

I told you in the instructions that there is only one conspiracy or one alleged conspiracy involved in the case. But it is divided into two counts and I think I might very well explain the reason for that, if counsel are agreeable as to why it is divided into two counts.

1672]

The first count charges that it was the object of the conspiracy that the defendants would violate the Federal law pertaining to the transportation or importation of intoxicating liquor into the State of Oklahoma. Then the second count charges the same conspiracy but that a part of the conspiracy was to also violate the Federal law pertaining to the requirement that persons who are engaged in the business of wholesale and liquor dealers must pay a special tax, the charge being that the defendants as a part of the conspiracy, and as an object of the conspiracy intended to wilfully fail to pay the special tax required of wholesale and retail liquor dealers.

Now, no doubt it has occurred to you, why divide it into two counts if it is only one conspiracy? The reason for it is

this: The Federal Act which prohibits transportation or importation of liquor into the State of Oklahoma under certain circumstances is what is known as a misdemeanor. The Federal law with reference to wilfully failing to pay the special tax required of a retail or a wholesale liquor dealer is what is known as a felony. So that the penalty -- the maximum penalty that may be imposed under the Federal law for a conspiracy to violate the Federal law which is a misdemeanor is less than the penalty that may be imposed where there is a conspiracy to commit an offense by violating a Federal law which is a felony.

Now then if we submitted this case on only one count
1673] to violate both the misdemeanor and the felony statute and there should be a verdict of guilty as to any one defendant there would be no way of knowing whether he was found guilty of the conspiring to violate the statute which was a misdemeanor or guilty of violating the statute which is a felony, or whether he is guilty of violating both. So in order that the verdict will reflect the conclusion reached by the jury with respect to the alleged conspiracy to violate particular Federal statutes it is divided into two counts. One conspiracy, but as to the first count it is alleged that the object is to violate the misdemeanor statute, whereas in the second count it is alleged that the object -- one of the objects was to violate the felony statute.

Is that explanation agreeable?

Mr. Ungerman: With one suggestion: Perhaps it might be wise to advise the jury what a misdemeanor is and what a felony is.

The Court: Yes, I think that is a proper suggestion.

An offense that is known as a misdemeanor is one that is -- where the maximum punishment provided by law does not exceed one year. And if the punishment provided by law for the commission of a particular offense provides for a maximum penalty that may be imposed of in excess of a year then it is known as a felony. So, to be specific, the maximum penalty that may be imposed for a conspiracy to violate the transportation statute

1674] is twelve months or a year, I have forgotten which way it reads; I guess it would be the same; and I believe $1000 fine.

Mr. Ungerman: One year and $1000.

The Court: One year and $1000 fine, whereas a conspiracy to violate the statute with reference to wilful failure to pay the tax, the special tax on wholesale and retail liquor dealers calls for a penalty in excess of a year; I don't know what it is but it is in excess of a year, so for that reason it is a felony.

Now do you have any further questions?

Well, do you think I have made that clear to you now? Do you think I have made that clear?

All right.

A Juror. There was a question, Your Honor, if there is anything -- any explanation on whether they wilfully or unintentionally violate these laws.

The Court: Well, the instructions are that there must be an intentional or wilful violation. In other words, the alleged conspiracy must have been entered into by the parties with intent to wilfully violate the Federal Statutes, to wilfully commit an offense against the United States.

Mr. Crawford: Your Honor, I think if I might approach the Bench --

(Thereupon Mr. Crawford, Mr. Ungerman, Mr. Shortridge,
1675] Mr. Patten, Mr. Gotcher, Mr. Page approached the Bench, and conferred with the Court.)

The Court: Anything further now?

The Foreman: Your Honor, there seems to be some difference of opinion as to the assumptions that can or cannot be drawn from the dismissal of three of the defendants in the case. Would you give us some instructions on what assumptions should properly be drawn or not be drawn from the fact that three of the defendants were dismissed?

The Court: Not any. The three defendants were discharged by the Court for the reasons that I explained to you. They go out of the case. The case is to be decided as to the remaining defendants who are on trial and the fact that the evidence was adjudged by the Court to be insufficient to submit the question of guilt to the jury with respect to three of the twenty defendants who were originally on trial is not a matter that should be given any consideration whatever in arriving at your decision in the case.

(Thereupon Mr. Ungerman, Mr. Crawford, Mr. Gotcher, and Mr. Shortridge conferred with the Court at the Bench.)

The Court: Now let me ask you, does that answer your question, or do you have something else in mind?

The Foreman: Well, that answers it to my satisfaction. I don't know about the others.

The Court: Is there any juror that was concerned about
1676] that particular question that feels that he would like to have the Court elaborate further on that point.

Juror Ellis: Your Honor, I wonder if we could have a copy of your instructions to the jury.

The Court: I think it would be well for you to be provided with a copy. The only thing is though that the written instructions that I prepared don't contain everything that was said. I covered some matters without having anything in writing but I see no reason why you should not have it.

Mr. Ungerman: We have no objection.

Mr. Crawford: No objection.

The Court: No objection. Now I will call your attention to the things that were omitted. I believe I have nothing in the instructions in the way of comment on the evidence. The comment that I made on the evidence was extemporaneous. I don't believe I have anything in the instructions covering the matters to be considered in determining the credibility of the witnesses;

just those last things I commented about on credibility of the witnesses, and the fact that the verdict had to be unanimous and that the penalty was a matter for the Court -- otherwise it is all in the instructions.

I will make a copy available to you. I will get the copy to you -- you want to go for dinner anyway, don't you?

The Foreman: Yes, sir.

The Court: I will have a copy available to you when you
1677] return.

Are you going to take the jury to dinner, Mr. Victor?

Mr. Victor: Yes, sir.

* * * * *

The Court will be in recess.

(Thereupon, the Court recessed at 6:20 P.M., April 25, 1957; and thereafter and at 12:20 A.M., Friday, April 26, 1957, the jury returned to the courtroom, and thereupon the following proceedings were had to-wit:)

The Court: Have you agreed upon a verdict?

The Foreman: Yes, sir.

The Court: Will you hand it to the bailiff.

(Thereupon, the verdicts were handed to the Clerk who read the verdicts as follows to-wit:)

The Clerk: Case of United States versus Jay L. Jones and others, No. 12999.

1678] We, the jury, find the defendant Jay L. Jones guilty as charged in the first count of the indictment, and not guilty as charged in the second count of the indictment. Signed by Robert Ellis.

Jay L. Jones et al. vs. United States of America

In the case of Paul Livingston, we, the jury, find the defendant Paul J. Livingston guilty as charged in the first count of the indictment, not guilty as charged in the second count of the indictment. Signed by Robert L. Ellis, Foreman.

Case of United States versus Jack Gott, we, the jury, find the defendant Jack Gott guilty as charged in the first count of the indictment, and the defendant Jack Gott not guilty as charged in the second count of the indictment.

We, the jury, find the defendant Leo Brantley Jackson guilty as charged in the first count of the indictment, and not guilty as charged in the second count of the indictment.

In the case of Johnnie E. Cole, we, the jury, find the defendant Johnnie E. Cole guilty as charged in the first count of the indictment, and find the defendant Johnnie E. Cole not guilty on the second count of the indictment.

James Richard Harpk, we, the jury, find the defendant James Richard Harp guilty as charged in the first count of the indictment, further find the defendant James Richard Harp not guilty on the second count of the indictment.

The case of William Thomas Peterson, we, the jury, find the defendant William Thomas Peterson guilty as charged in the first count of the indictment, not guilty as charged in
1679] the second count of the indictment.

Case of Oliver B. Stephens, we, the jury, find the defendant Oliver B. Stephens guilty as charged in the first count of the indictment, and not guilty as charged in the second count.

John E. McAfee: We, the jury, find the defendant John E. McAfee guilty as charged in the first count of the indictment, and not guilty as charged in the second count of the indictment.

In the case of United States versus Theopolis Scoggins, we, the jury, find the defendant Scoggins not guilty as charged in the first count of the indictment, and not guilty of the second count in the indictment.

The case of T. Martin Edwards, we, the jury, find the defendant T. Martin Edwards guilty as charged in the first count of the indictment, and further find the defendant T. Martin Edwards guilty as charged in the second count of the indictment.

The case of Elmer Lee Oakley, we, the jury, find the defendant Elmer Lee Oakley guilty as charged in the first count of the indictment, and not guilty as charged in the second count of the indictment.

In the case of John David Hood, we, the jury, find the defendant John David Hood is guilty as charged in the first count of the indictment; further find the defendant John
1680] David Hood guilty as charged in the second count of the indictment.

Case of F. Lee Johnson, we, the jury find the defendant F. Lee Johnson guilty as charged in the first count of the indictment, and not guilty as charged in the second count of the indictment.

The case of Paul Donelly Rucker, we, the jury, find the defendant Paul Rucker guilty as charged in the first count of the indictment, and further find the defendant Paul Rucker not guilty as charged in the second count of the indictment.

Case of Fred E. Griffing, we, the jury, find the defendant Fred E. Griffing guilty as charged in the first count of the indictment, and further find the defendant Fred E. Griffing not guilty as charged in the second count of the indictment.

The case of Don Gray, we, the jury, find the defendant Don Gray guilty as charged in the first count of the indictment, and further find the defendant Don Gray not guilty as charged in the second count of the indictment.

All of them signed by Robert Ellis, Foreman.

Mr. Patten: If Your Honor please, would you mind reading that Theopolis Scoggins again? I want to hear it again.

The Court: Pass them up to me.

Now, Gentlemen and Mrs. Davis, as to the defendant Theopolis
1681] Scoggins, you find him not guilty on both counts of the indictment; is that your verdict? Very well.

The defendant Scoggins will be discharged and released.

As to the defendant Jay L. Jones, Paul Livingston, Jack Gott, Leo Jackson, Johnnie Cole, James Richard Harp, William Thomas Peterson, Oliver B. Stephens, John E. McAfee, Elmer Lee Oakley, F. Lee Johnson, Paul Donelly Tucker, Fred A. Griffing, and Don Gray, as to each of those defendants you find them guilty on the first count of the indictment and not guilty on the second count; is that your verdict?

The Foreman: Yes, sir.

The Court: And then as to defendants John David Hood and T. Martin Edwards, you find them guilty on both counts of the indictment; is that your verdict?

The Foreman: Yes, sir.

The Court: So say you all?

All right.

Well, Mrs. Davis, and Gentlemen, you have had a great responsibility in this case and you have discharged it with credit to yourselves and to the benefit I think of your community and the State. I appreciate very much the fine service that you have rendered.

This is the last case to be tried at this term of Court. You will be excused from further service at this term.

The defendants --

1682] Mr. Ungerman: If Your Honor please, before -- may we make a record on the returning of the verdict?

I would like to except to the rendition of each of the verdicts as to each of the defendants so found guilty: With respect to the defendant Edwards an exception to the returning of the verdict both as to the first and second counts.

The Court: There is no record to make.

Mr. Ungerman: Well, there seems to be some confusion on the law on that subject. That's the reason why I --

The Court: You just except to the verdicts in each instance.

Mr. Ungerman: In each instance on each count for the defendants so found guilty of the particular count.

The Court: The defendants will all be released on the bonds heretofore made, and the case will be set for sentence one week from tomorrow. This is Friday -- one week from today. On Friday morning, May 3, at 9:30, and I would like to have a report on each of the defendants from your office, Mr. Scott; I would like to have a report on each of the defendants that were found guilty.

These verdicts will be filed.

The Court will be in recess.

(Plaintiff's exhibit 6 is a large physical exhibit being a chart purporting to show cases of liquor purchased by Don Gray from Joplin, Missouri, wholesale liquor dealers, January 1953 through April 1957.)

(Plaintiff's exhibit 13 is a large physical exhibit being a chart purporting to show liquor cases filed in Tulsa Municipal Court.)

Jay L. Jones et al. vs. United States of America

(Plaintiff's exhibit 14 is a large physical chart being a chart purporting to show the weekly average number of liquor cases filed in Tulsa Municipal Court.)

(Plaintiff's exhibit 16 is a large physical exhibit purporting to be a chart of monthly average of liquor delivered by the Chief of Police, Tulsa, to the Sheriff of Tulsa County.

UNITED STATES OF AMERICA)
) ss
NORTHERN DISTRICT OF OKLAHOMA.)

CLERK'S CERTIFICATE

I, Noble C. Hood, Clerk of the United States District Court for the Northern District of Oklahoma, do hereby certify that the above and foregoing, together with Volumes II, III, IV, V, VI, VII and VIII containing pages 257 to 2358 inclusive, together with the physical exhibits forwarded herewith, is a full, true and correct transcript of the complete original record designated by counsel, and as required under Paragraph G of Rule 75 of the Rules of Civil Procedure, to be prepared and certified in the case of United States of America versus Jay L. Jones, et al., in Criminal Case No. 12,999, as the same appears from the records in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office in Tulsa, this 15th day of July, A.D., 1957.

NOBLE C. HOOD, CLERK

By M.M. Ewing
Chief Deputy

Filed United States Court of Appeals,
Tenth Circuit, July 30, 1957, Robert B. Cartwright, Clerk.

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No. 788

Supreme Court, U.S.
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In the Supreme Court of the United States

October Term, 1957.

JAY L. JONES, PAUL J. LIVINGSTON, JACK GOTT, LEO BRANTLEY JACKSON, JOHNNY E. COLE, JAMES RICHARD HARP, WILLIAM THOMAS PETERSON, OLIVER B. STEPHENS, JOHN E. McAFEE, T. MARTIN EDWARDS, ELMER LEE OAKLEY, JOHN DAVID HOOD, F. LEE JOHNSON, PAUL DONLEY RUCKER, and FRED A. GRIFFING, *Petitioners*,

vs.

UNITED STATES of AMERICA, *Respondent*.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT.

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IN THE SUPREME COURT OF THE UNITED STATES,

October Term, 1957

No.....

JAY L. JONES, PAUL J. LIVINGSTON, JACK GOTT, LEO BRANTLEY JACKSON, JOHNNY E. COLE, JAMES RICHARD HARP, WILLIAM THOMAS PETERSON, OLIVER B. STEPHENS, JOHN E. McAFEE, T. MARTIN EDWARDS, ELMER LEE OAKLEY, JOHN DAVID HOOD, F. LEE JOHNSON, PAUL DONLEY RUCKER, and FRED A. GRIFFING, ***Petitioners,***

vs.

UNITED STATES of AMERICA, ***Respondent.***

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT.

To the Honorable, The Supreme Court of the United States:

Come now the above named petitioners and respectfully petition this Honorable Court for a writ of certiorari to the United States Court of Appeals for the Tenth Circuit, and respectfully show:

A.

Opinion Below.

The opinion of the United States Court of Appeals for the Tenth Circuit has not yet been officially reported. Appended hereto are copies of the opinion and of the judgment order in cases 5678-5693, inclusive, in said court. (Appendix, pp. 45-60, 60-61)

B.

Jurisdiction.

The judgment of the United States Court of Appeals for the Tenth Circuit was entered on January 6, 1958, and the court's opinion was filed by the clerk on said date. A petition for rehearing was duly and timely filed by petitioners on January 15, 1958, and was denied by the court on January 21, 1958. Jurisdiction of this Court is invoked under Title 28, U. S. Code, Section 1254 (1).

C.

Questions Presented.

1.

Under an indictment charging a *single* conspiracy, requiring a general verdict of "guilty" or "not guilty," does not the subterfuge of splitting such conspiracy into two purported "counts," each "count" charging one of the objects or "parts" of the conspiracy, followed by submission to the jury of the single conspiracy under instructions and forms of verdict requiring *separate "special" verdicts* of "guilty" or "not guilty" as each "count" or object, violate fundamental Due Process?

2.

As a matter of judicial policy, will this Court sanction adoption by the Federal courts of the odious concept of "implied crimes" or "implied conspiracies," thereby vastly extending the criminal jurisdiction of the Federal courts and usurping the jurisdiction of the State courts, by suffering a conspiracy to violate the laws of the United States to be *implied* upon the doctrine or "finding" of a "necessarily included conspiracy," as does the opinion of the Court of

Appeals, where the undisputed evidence clearly establishes a conspiracy, the sole object of which is a local police "protection payoff," operating wholly within the confines of the City of Tulsa, in violation only of the laws of the State of Oklahoma?

3.

Does not fundamental Due Process demand that a new trial be granted, where, in a mass conspiracy trial of eight days' duration, charging *only* a conspiracy to import liquor into a dry State and to evade payment of Federal liquor dealer taxes (which latter object the appellate court held was *wholly unsustained* by any evidence and *should not have been submitted* to the jury), some 117 of the 123 witnesses adduced testified concerning prostitution, gambling, graft and corruption, and innumerable, separate, ancient, uncharged, wholly unrelated and unconnected offenses and conspiracies spanning some eight years *prior* to the submitted conspiracy, and where the trial court, though clearly recognizing said testimony to be immaterial and prejudicial, refused to grant motions for a mistrial and for a new trial, and sought to *erase* the indelible prejudice permeating the trial by admonition and instruction to the jury, wholly ineffective and unavailing, "to disregard" virtually all of the evidence adduced?

D.

Constitutional Provisions and Statutes Involved.

This cause involves Constitutional provisions under the Fifth, Sixth and Tenth Amendments and statutory provisions under Title 18, U. S. Code, Sections 371 and 1262, and Title 26, U. S. Code, Section 5691. A vital question of

Federal criminal procedure is also involved. which, to the extent applicable, concerns the provisions of Rule 7 (c) of the Federal Rules of Criminal Procedure.

By virtue of the length of the foregoing provisions, the pertinent text has been set forth in an appendix, pp. 61-64.

E.

Statement of the Case.

1.

The Indictment.

By indictment returned in Case No. 12999, Criminal, in the United States District Court for the Northern District of Oklahoma, the grand jury charged that the twenty defendants had, on or about January 1, 1948, entered into an unlawful conspiracy among themselves and with twenty-one named co-conspirators and other persons unknown, in violation of Title 18, U. S. Code, Section 371, and that said conspiracy continued to on or about February 21, 1957. (R. 13-19)

While charging only a *single conspiracy*, the indictment was *separated into two "counts."*[1]

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1. Some three weeks prior to return of this indictment, the grand jury had, in Case No. 12993, Criminal, returned a "*one-count*" indictment against the same defendants charging the same offense. The prior indictment varied from the indictment in cause: (a) in charging inception of the conspiracy as on or about March 1, 1952; (b) in charging only 19 named co-conspirators; and (c) in charging the conspiracy in a single count.

Motions to dismiss the first indictment on various grounds, including "duplicity", were overruled, the indictment held valid, and the case set for trial. Notwithstanding same, the Government immediately caused the grand jury to return a new indictment—the indictment in this cause—for the evident purpose of *splitting* the conspiracy into separate "counts" and elected to proceed to trial on the latter indictment.

Count I charged that "It was a *part of the conspiracy* that the defendants would wilfully import intoxicating liquors * * *" into Oklahoma in violation of Title 18, U. S. Code, Section 1262, while Count II charged that "It was a *part of the conspiracy* that the defendants would carry on the business of wholesale and retail liquor dealers and wilfully fail to pay the special taxes therefor * * *" in violation of Title 26, U. S. Code, Section 5691. (R. 13-14, 18; italics ours.)

Motions to dismiss the indictment and each "count" thereof were overruled and trial was had before the court and a jury. Petitioners' motions for judgment of acquittal were overruled and the cause was submitted to the jury.

2.

The "Special" Verdicts.

Over objection of petitioners, the trial court submitted a *single conspiracy,* allegedly entered into on or about March, 1956, to the jury under instructions and forms of verdict requiring the jury to return *two separate verdicts*: (a) "guilty" or "not guilty" of count I (importation); (b) "guilty" or "not guilty" of count II (failure to pay tax).[2]

Pursuant to the instructions, the jury returned verdicts as to each "count" or object of the single conspiracy, finding petitioners guilty of count I but not guilty of count

2. R. 949-953, 958, 969-971.

For the convience of this Court, we have set forth the trial court's instructions pertinent hereto in an appendix, pp. 64-66, 68-70.

II of the conspiracy, except petitioners Martin Edwards and John Hood who were convicted on both counts.[3] Appropriate exceptions were taken to the verdicts and to each count thereof. (R. 57-62, 973-977)

3.

The March 1956 Conspiracy.

Though the indictment charged the existence of a conspiracy having its inception in January, 1948, the trial court held that the Government had failed to establish any conspiracy prior to March, 1956, and, in submitting the cause to the jury, the court limited the conspiracy charged to one entered into on or about March, 1956. (R. 866-867, 949-951)

Of the 123 witnesses in the 8 day trial, only Bill Edwards, a "bootlegger" desirous of controlling liquor in the City of Tulsa, and Charles Hirrlinger, a co-conspirator, testified as to the existence of the conspiracy, which had its inception in March, 1956, when Edwards, Hirrlinger and petitioner McAfee, a billiard parlor operator and reputably a gambler, conceived an unlawful scheme for exaction of tribute from liquor dealers or "bootleggers," and possibly from gamblers and prostitutes, under an arrangement for a City "protection pay-off." The scheme was to offer liquor dealers "protection" from enforcement by City law enforcement officials of State and City laws prohibiting sale

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3. On appeal, the U. S. Court of Appeals held that the trial court had erred in submitting the second count to the jury, as the evidence was insufficient to establish any agreement or conspiracy to fail to pay the federal taxes. The court accordingly reversed convictions of Edwards and Hood on Count II, but affirmed convictions of all petitioners as to count I. (Opinion, appendix, pp. 52, 60)

of liquor within the City of Tulsa in return for payments by the liquor dealers of specified monthly sums of money. (R. Edwards, 454-455; Hirrlinger, 557-560)

To effect such scheme, these three conspirators contacted petitioner Jones, a candidate for City police commissioner, and outlined the scheme to him. Jones needed money to satisfy obligations incurred in the campaign, accepted contributions made and obtained by them, and promised Edwards that he would be in charge of "collections" from liquor dealers if Jones were elected. It was agreed that after payment of expenses Jones was to receive one-half of the profits from the "pay-off," and that Edwards, Hirrlinger and McAfee would split the remaining half equally. (R., Hirrlinger, 558, 560-562; Edwards, 453-455, 458)

In the April 1956 elections, Jones was elected police commissioner and assumed the duties of such office in May. Thereafter, in May, 1956, Edwards and Hirrlinger met with petitioners Jones, Livingston, Gott and McAfee,[4] and the scheme for a City "protection fix" conceived by Edwards, Hirrlinger and McAfee crystalized into an unlawful conspiracy against the laws of the State of Oklahoma.

The conspiracy, as formulated by agreement of the six conspirators, provided for exaction of specified monthly sums of money from liquor dealers in the City, which money was to be collected by Edwards,[5] in return for free-

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4. At that time, Livingston was police chief and Gott was head of the vice squad.

5. Hirrlinger was to make collections, if any, from gamblers and prostitutes. The Record, however, does not disclose any such collections, and the trial court held that gambling and prostitution had not been connected with the liquor conspiracy. (R. 867) In fact, defendant Wells, a bail bondsman who posted bonds for prostitutes in the Municipal Criminal Court, through whom the Government sought to tie in prostitution, was acquitted on motion for judgment of acquittal at the close of the Government's evidence. (R. 119, 864, 866)

dom from raids, arrests and seizures of liquor by City law enforcement officials.[6]

The original "split" was revised, and, after payment of expenses,[7] Jones was to receive 40%, Livingston 20%, Gott 20%, defendant Bulloch[8] 10%, and the remaining 10% was to be split equally among Edwards, Hirrlinger and McAfee. (R., Hirrlinger, 562-564, 570, 571; Edwards, 455-456, 459-460, 530-531)

Edwards contacted Tulsa liquor dealers and offered "protection" if they paid the requisite monthly sums.[9] Upon payment, their automobile license numbers were relayed to Gott by Edwards, and Gott was to advise the vice squad members not to arrest drivers of those vehicles and not to seize liquor contained therein. Presumably, failure or re-

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6. The conspirators did not discuss "protection" against enforcement of Federal and State laws by Federal, State and County officials. The *sole object* of the conspiracy was to provide *immunity from City law enforcement* upon payment of tribute—to provide "city protection" against "raids and arrests and seizures by the Police Department * * * of the City". (R., Hirrlinger, 571; Edwards, 530-531, 455, 456, 460, 471) This was clearly established by the testimony of both Hirrlinger and Edwards.

7. Anticipated expenses included $500 a month for Livingston, $200 a month for each vice squad member, and $500 a month for a "mystery man" identified by Jones only as "a lawyer". The Record, however, does not disclose payment or receipt of any of these "anticipated" expenses.

8. Bulloch, a newspaper man described by the Government at the outset of the trial as the "conductor" of "A Streetcar Named Desire", the arch conspirator directing a conspiracy named Corruption, was acquitted by the trial court upon motion for judgment of acquittal at the close of the Government's case. The court held that the evidence as to Bulloch, who was not present at any of the meetings of the conspirators was insufficient to establish membership in the March 1956 conspiracy. (R. 151-153, 118-119, 864, 867-869)

9. Payments were obtained from numerous liquor dealers, including petitioners Oakley, Hood, Johnson, Rucker and Griffing.

fusal to pay the demanded "tribute" was to result in action by the vice squad in the form of raids and arrests. (R. 460, 472, 475)

Evidence was adduced which tended to show that raids and arrests were less frequent in 1956 and that less liquor was seized, but this condition was a general one existing without regard to whether or not liquor dealers had paid the requisite tribute. In fact, almost from inception of the conspiracy, the liquor dealers who voluntarily paid Edwards for "protection" complained incessantly that the dealers who were not paying were not being raided or arrested.[10] This condition existed throughout the short life of the conspiracy, and, in the numerous meetings of Edwards, Hirrlinger, McAfee and Jones in June, 1956, the three original conspirators endeavored to persuade Jones that he should cause increased raids on the non-paying liquor dealers. Edwards complained bitterly that as often as five days a week he would advise Gott which dealers had paid and which had not, and, while Gott assured him that the information had been communicated to the vice squad members, no action was taken by them. (R. 475, 485, 486, 565)

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10. There existed, in fact, a belief by the liquor dealers who had paid Edwards for "protection" that "they were being used as chumps" for "nobody was arrested, so the boys that voluntarily paid * * * were wondering why (they paid)." (R. 485)

In July, 1956, some sixty days after crystalization of the conspiracy agreement, Edwards and Hirrlinger withdrew and the conspiracy aborted.[11]

This conspiracy of March, 1956, which was the sole conspiracy submitted to the jury, was not a conspiracy to import liquor or a conspiracy to evade payment of the Federal taxes imposed on wholesale and retail liquor dealers. *There was no evidence of any agreement to import liquor or of any agreement to evade payment of the Federal taxes.*[12]

In fact, the appellate court held that *no agreement* to evade payment of the Federal taxes imposed on liquor dealers had been established and that the *trial court had erred*

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11. Edwards, Hirrlinger and Gott met in July 1956 to divide the tribute collected. The shares of Edwards, Hirrlinger and McAfee were each slightly in excess of $200. McAfee's share was delivered to his business establishment by Hirrlinger and was left on a desk. The Record does not disclose actual receipt of any money by McAfee. Gott, who was to receive 20 per cent, retained the remaining 90 per cent, presumably for distribution to Jones, Livingston and Bulloch, but the Record does not disclose receipt by them of any funds. (R. 479-480, 509, 566-568, 572)

12. The conspirators were not at all concerned with where or how the liquor dealers obtained their liquor or how they conducted their businesses. The dealers were free to obtain their liquor from whomever they desired, whether by importation or by purchase from other Oklahoma dealers. It was not a part of the conspiracy agreement that Bill Edwards, or any other person, would import the liquor to be sold in Tulsa. It was not mandatory that the liquor dealers buy their liquor from Bill Edwards or from any other person. These were individual business problems wholly outside the scope of the conspiracy agreement.

The conspirators simply did not discuss importation or the wholesale or retail sale of liquor. It was not part of their unlawful agreement. That liquor was sold or would be sold was wholly immaterial. Neither importation nor wholesale or retail sales of liquor were objects of the conspiracy. The fact of sale was a mere incidental fact which created an opportunity to demand and extract tribute as a cost of doing business. (R., Edwards, 471, 530-531; Hirrlinger, 570-571)

in submitting to the jury the *second count* of the indictment, which charged that it was an object of the conspiracy that wholesale and retail liquor businesses would be conducted and that the dealers would fail to pay the requisite Federal taxes.[13]

The agreement of these conspirators, shown by the record in the testimony of Charles Hirrlinger and Bill Edwards, co-conspirators, was an agreement for a City "protection pay-off," the sole object of which was the exaction of money as tribute in return for immunity from arrest under the unlawful "license" granted.[14]

That was the evidence adduced as to the March, 1956, Conspiracy!

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13. Opinion, U. S. Court of Appeals, appendix, p. 52.

Though finding no agreement to import liquor, the appellate court upheld convictions of petitioners for the charged conspiracy to import liquor. The Court held that the conspirators necessarily "contemplated" and "understood" that liquor would be imported, for "Without imported liquors, the combine would have no liquor business to control in Tulsa", and held that an agreement to import liquor must therefore be *inferred or implied* as a matter of law, even in the absence of an actual agreement of the conspirators. (Opinion, appendix, pp. 52, 54)

14. Hirrlinger testified:

"Q. * * * In other words, the plan was, there was to be a payoff from the liquor dealers * * * and having paid off they would be free, or assured freedom from raids, by the vice squad and raiding squads of the City Police Department?

A. Yes, sir.

Q. With reference to the liquor dealers, *who was to take care of the Federal Law Enforcement*, or was that discussed?

A. *That wasn't discussed.*

Q. Well, *the idea was to get the liquor dealers*—

A. *The city protection.*

Q. Against raids and arrests and seizures by the Police Department, the raiding squad or the police department of the City, that's right, isn't it?

A. That's right." (R. 571; italics ours)

And Edwards similarly limited the conspiracy by his testimony:

4.

Separate Unrelated Conspiracies.

Two witnesses testified as to the existence of the March 1956 conspiracy, and four other witnesses testified to corroborate Edwards' testimony as to the fact of "pay-offs" to Edwards.

Footnote 14 Continued

"Q. * * * Subsequent to March 30, 1956, I * * * ask you if during the month of May you had occasion to meet with Jay Jones, Paul Livingston, Jack Gott, Charles Hirrlinger and Johnny McAfee.

A. Yes, sir.

* * * * * *

Q. Will you relate * * * the substance of that conversation had in May?

A. Yes, sir, the substance of the conversation concerned this *protection fix* thing, that we set up.

* * * * * *

Q. * * * under this arrangement at the meeting there was it discussed how the protection fix as you call it was to operate?

A. Yes, sir.

Q. And how as it to operate?

A. I was to contact these bootlegers * * * and let them know that I could help them of they needed some help in getting along in their business; and if they didn't cooperate with me by paying me * * * $100 a car, or a minimum of $200, then they were reported to the vice squad and those boys were to be picked up.

* * * * * *

Q. *And was it part of this agreement that you were to sell to the liquor dealers that you were picking up from?*

A. It wasn't— *it wasn't mandatory* that they buy from me * * * they could trade with whoever they wanted to.

Q. Did most of them trade with you?

A. No, * * * no, they didn't * * *

* * * * * *

Q. * * * what were the liquor dealers to receive?

A. Oh, *they were to receive absolute police protection.*

Q. In other words, protection against arrests, search and seizure, by the raiding squad?

A. Yes, sir * * *

Q. In other words, the understanding was that the liquor dealers in Tulsa would be—who were paying off through you would be operating with an assurance that they wouldn't be knocked off by the raiding squads of the police department?

A. Yes, sir.

* * * * * *

However, virtually all of the testimony of the 123 witnesses adduced in the eight day trial concerned separate, unrelated, ancient conspiracies, offenses, acts and transactions, and other immaterial evidence, covering some eight years prior to the charged March, 1956 conspiracy.[15]

Footnote 14 Continued

Q. And that those liquor dealers who were not paying off would be raided and searched and arrested with a view of coercing them into joining into this arrangement,—am I stating it right?

A. That's true, that's right.

• • • • • •

Q. • • • *Were you paying any protection to the Oklahoma Highway Patrol* against seizure of automobiles on the highways?

A. No, sir.

Q. *No other department of Government?*

A. No, sir.

Q. *You took your chances with the Highway Patrol and with the Federal Officials?*

A. Yes, sir." (R. 455, 456, 460, 471, 530, 531; italics ours)

15. Exemplary of the mass of irrelevant, immaterial and prejudical testimony adduced was evidence concerning the following separate, unrelated conspiracies, offenses, acts and transactions, primarily prior to the March 1956 conspiracy but also including some unrelated conspiracies and transactions subsequent thereto:

(a) The 1948 "pay-off" conspiracy of Epps and defendant Bulloch (R. 169-173, 189, 197, 164-169, 198-201, 202-204, 212, 231-233);

(b) The 1953 conspiracy of Epps and defendant Bulloch (R. 174-177, 210-212, 213-214, 214-216, 614-615);

(c) The 1950-1952 "pay-off" conspiracy of Boone, Carter (an admitted perjurer), and Graves (R. 218-231, 233-236, 239-242, 242-248, 253-255, 379-380, 380-387, 573-578);

(d) The July 1956 "pay-off" conspiracy of Moore and petitioner Peterson (R. 690-694, 700-701);

(e) The July 1956 "pay-off" conspiracy of Massey and petitioner Martin Edwards (R. 745-762, 765-771, 775-776, 707-712, 715-716);

(f) The 1953-1956 purchases of liquor by Bill Edwards from defendant Gray and the September or October 1956 "importation conspiracy" between Gray and Bill Edwards (R. 317-322);

(g) The 1951 liquor transactions between Moore and defendant Gray (R. 304-306, 309, 310-311);

(h) The 1952-1956 wholesale and retail sales of liquor by petitioner Martin Edwards (R. 687-688, 688-689, 720-723, 739-741, 744, 754-755, 760, 763, 702-703, 326-327);

(i) Importation of liquor in 1948, 1949, 1950, and early 1951, when the Federal Liquor Enforcement Act was not applicable to Oklahoma and it was not lawful to import liquor (R. 259-263, 299-302, 302-304, 311-316, 316-317);

F.

Jurisdiction in First Instance.

Jurisdiction of the trial court is derived from the provisions of Title 18, U. S. Code, Section 3231, and was invoked by the return of an indictment by a Federal grand jury charging an unlawful conspiracy against the laws of the United States in violation of Title 18, U. S. Code Section 371.

Footnote 15 Continued

(j) Importation of liquor in 1951, 1952, 1953, 1954, 1955, and pre-March 1956, prior to the March 1956 conspiracy, constituting separate unrelated substantive offenses (R. 304-306, 309-311, 317-322, 322-324, 326-328);

(k) The arrest of one Carl Harp, who was not charged as a defendant or co-conspirator, by A. T. U. investigator Burns in Missouri in 1953 (R. 268-271, 273-274, 388-390);

(l) The arrest of one Lefty Anderson by A. T. U. investigator Starrett in Missouri on April 23, 1955 (R. 283-284);

(m) The arrest of one Robert Faucet by A. T. U. investigator Starrett on May 14, 1956, in Kansas (R. 284-285);

(n) The arrest of "runners" for petitioner Johnson by officer Carter at unspecified times and places (R. 587-588);

(o) The arrest of one Paul Neal by investigator Starrett in Missouri on January 11, 1957 (R. 287-288);

(p) The arrest of petitioner Griffing by A. T. U. investigator Starrett in Kansas in 1956 (R. 286-287);

(q) The arrest of petitioner Oakley by officer Carter at an unspecified time and place (R. 587);

(r) The arrest of petitioner Hood by officer Carter at an unspecified time and place (R. 588);

(s) The stopping of defendant Gray in Missouri by A. T. U. investigator Starrett on November 5, 1956, and Starret's testimony that Gray had 60 cases of whiskey with him (R. 285-286);

(t) The isolated sale of one lug of half-pints of gin by petitioner Peterson to Moore in 1953 (R. 604-606, 607-608);

(u) Payment or non-payment of Federal taxes imposed on retail and wholesale liquor dealers in 1948, 1950, 1951 and 1952 (R. 401-413).

G.

Reasons Relied On for Allowance of the Writ.

1.

Special Verdicts.

(a)

The opinion of the United States Court of Appeals for the Tenth Circuit, in the cause below, is in direct conflict with the decision of the United States Court of Appeals for the Eighth Circuit in *Gray* v. *United States*, 174 F. 2d 919, cert. den. 338 U. S. 848, 70 S. Ct. 90, 94 L. ed. 519.

(b)

The court below has decided an important question of Federal criminal procedure which has not been, but should be, settled by this Court:

Are *special verdicts* authorized in Federal criminal prosecutions?

In the prosecution of a *single conspiracy*, charging several objects, some of which as substantive offenses are felonies and some misdemeanors, *is the trial court empowered*, over objection of a defendant, to require the return by the jury of special verdicts, or separate verdicts of "guilty" or "not guilty" as to each object or "part" of the single conspiracy?

(c)

By sanctioning the novel and unprecedented action of the trial court in requiring special verdicts as to a single conspiracy charged, over objection of the defendants, the United States Court of Appeals permitted a departure from established Federal criminal procedure so great in character and effect upon the substantive rights of the defendants as to constitute a denial of fundamental Due Process

and to call for an exercise of this Court's power of supervision.

(d)

The failure of Congress, in enacting the new Federal conspiracy statute, Title 18, U. S. Code, Section 371, to visualize the perplexities of judicial administration created by prescribing different maximum punishments for conspiracies with a felony object or objects and conspiracies to commit misdemeanors only, created a dilemma which has resulted in an ever-broadening area of conflict and confusion.

The statute provides, in pertinent part:

> "If, however, the offense, the commission of which is the *object* of the conspiracy is a *misdemeanor only*, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor." (Italics ours.)

Where the indictment seeks to charge a single conspiracy with multiple objects, some of which as substantive offenses are felonies and some misdemeanors, how must or may the conspiracy be charged, tried and submitted to the jury?

Absent guidance by statutory enactment, Rule of Criminal Procedure, or decision by this Court, Federal trial courts, prosecutors, defendants and the Federal Bar have, with the increased utilization of multiple-object conspiracy prosecutions since 1948, floundered on a sea of perplexities in endeavoring, within the framework of existing criminal procedure, to effect presumed Congressional intent.[16]

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16. Exemplary of the multitudinous quandaries created by the new conspiracy statute are:

A. The indictment—

1. Must the single conspiracy be charged in a single count?

Clearly involved in every Federal criminal conspiracy prosecution, where felony and misdemeanor objects of a single conspiracy are charged, are the noted, unresolved questions of Federal criminal procedure,[17] national in extent and vital in character.

Footnote 16 Continued

2. May the single conspiracy be charged in several "counts", the felony objects being charged in one "count" and the misdemeanor objects in another "count"?
3. May a defendant be tried upon an indictment, which, *over his objection*, splits the single conspiracy into several "counts", separating the felony and misdemeanor objects?

B. The verdict—

1. Must only one general verdict of "guilty" or "not guilty" of the single conspiracy charged be returned?
2. May several "special verdicts" be returned as to a single conspiracy charged, in order to determine whether the evidence established the existence of a felony object or whether the conspiracy, though charging a felony object, was in fact, a conspiracy to commit a misdemeanor only?
3. May a defendant obtain upon request "special verdicts" as to the objects of the multiple-object, single conspiracy charged?
4. May "special verdicts" be submitted to the jury, where a multiple-object, single conspiracy is charged, *over objection* of a defendant, who, fearing a *compromise verdict* of guilty of conspiracy to commit a misdemeanor but not guilty of conspiracy to commit a felony, *demands* the return of a single general verdict of "guilty" or "not guilty" of the single conspiracy charged?

C. Punishment—

1. Upon the return of a general verdict of "guilty as charged" of a multiple-object, single conspiracy, some of the objects of which are felonies and some misdemeanors, how may the trial court determine the imposition of punishment?
2. After a general verdict of "guilty as charged" of a multiple-object, single conspiracy, where both felony and misdemeanor objects were charged, must the trial court weigh the evidence to determine if sufficient evidence was adduced to sustain a finding of guilty of a conspiracy to commit one of the felony objects before the court may impose punishment as for a felony?
3. Will the charging of a single conspiracy to commit several objects, misdemeanors and felonies, justify imposition of punishment as for a felony, upon a general verdict of "guilty as charged," where the Record is wholly devoid of any evidence establishing that any of the charged felony objects were objects of the conspiracy?
4. If, over objection of the defendants, special verdicts may be required and returned as to a multiple-object, single conspiracy charged, may the court impose punishment on the findings of "guilty" of only half or "part" of the single offense charged?

17. See Footnote 16, *supra*.

Federal trial judges are required to weigh and balance the asserted right of the defendant to have but one general determination by a jury of his guilt or innocence of the single, indivisible, charged offense of conspiracy, against assumed or presumed Congressional "intent" in enactment of the "misdemeanor punishment" provisions.

The gravity of the absence of a definitive determination of the duties and powers of Federal trial courts in multiple-object conspiracy prosecutions is most vividly demonstrated by the hopeless confusion and conflict existing not only in the district courts but in the Courts of Appeals. (See Argument, Part "H," *infra*, pp. 24-30)

The orderly admin stration of justice has been seriously hampered; constitutional rights and guarantees under the Fifth and Sixth Amendments have been abrogated by "novel innovations" of criminal procedure; and the "backbone" of our courts—public confidence—is being undermined. The remedy lies not alone in Congress, for Federal trial courts must nonetheless endeavor to administer justice under existing Statutes and Rules of Criminal Procedure.

For the benefit of the Federal Bench and Bar, and the general public, this Court should resolve the conflict and confusion and declare a rule of uniform practice and procedure in such conspiracy prosecutions.

2.

Implied Crimes.

(a)

By its adoption of the pernicious and odious doctrine of *implied crimes and implied conspiracies*, the opinion of

the United States Court of Appeals for the Tenth Circuit, in the cause below, is in direct conflict with long-established conspiracy principles, and is in direct conflict with prior decisions of this Court, denouncing implied, presumed and constructive crimes or conspiracies, including the decisions of this Court in *Grunewald* v. *United States,* 353 U. S. 391, 77 S. Ct. 963, 1 L. ed. 2d 931, and *Krulewitch* v. *United States,* 336 U. S. 440, 69 S. Ct. 716, 93 L. ed. 593.

(b)

In creating and finding an implied agreement and conspiracy, predicated upon the pyramiding of inference upon inference, contrary to the actual intent and agreement of the conspirators, the opinion of the court below is in direct conflict with prior decisions of this Court, including decisions in *Direct Sales Co.* v. *United States,* 319 U. S. 703, 63 S. Ct. 1265, 87 L. ed. 1674, and *United States* v. *Falcone,* 311 U.S. 205, 61 S. Ct. 204, 85 L. ed. 128.

The opinion of the United States Court of Appeals for the Tenth Circuit, in the cause below, is further in direct conflict with the decision of the United States Court of Appeals for the Second Circuit in *United States* v. *Dellaro,* 99 F. 2d 781; the decision of the Third Circuit in *United States* v. *Russo,* 123 F. 2d 420; the decision of the Fifth Circuit in *Rent* v. *United States,* 209 F. 2d 893; and prior decisions of the Tenth Circuit in *Thomas* v. *United States,* 57 F. 2d 1039, *Bacon* v. *United States,* 127 F. 2d 985, and *Gerson* v. *United States,* 25 F. 2d 49.

(c)

In finding the existence of a conspiracy against the United States, predicated upon evidence establishing, at most, a conspiracy for a local City "protection pay-off," solely in violation of the laws of the State of Oklahoma, thereby extending Federal jurisdiction over State crimes, contrary to the mandate of the Tenth Amendment, the opinion of the court below is in direct conflict with the decision of the United States Court of Appeals for the Fourth Circuit in *Walker* v. *United States,* 104 F. 2d 465; the decision of the Fifth Circuit in *Railton* v. *United States,* 127 F. 2d 691; the decisions of the Ninth Circuit in *Rossi* v. *United States,* 49 F. 2d 1, and *Weniger* v. *United States,* 47 F. 2d 692; and the prior, controlling decision of the Tenth Circuit in *Wilder* v. *United States,* 100 F. 2d 177.

3.

Fair and Impartial Trial.

(a)

The opinion of the United States Court of Appeals for the Tenth Circuit, in the cause below, is in direct conflict with the decision of this Court in *Kotteakos* v. *United States,* 328 U. S. 750, 66 S. Ct. 1239, 90 L. ed. 1557, and the test of prejudice therein decreed.

(b)

In holding that admission of innumerable, wholly unrelated, separate, uncharged conspiracies and offenses, including evidence of prostitution and gambling, did not constitute prejudice and did not deprive defendants of a fair and impartial trial, the opinion of the court below is in direct conflict with the decisions of this Court in *Boyd* v.

United States, 142 U. S. 450, 12 S. Ct. 292, 35 L. ed. 1077, and *Michelson* v. *United States,* 335 U. S. 469, 69 S. Ct. 213, 93 L. ed. 168.

The opinion of the court below is further in conflict with the decision of the United States Court of Appeals for the Second Circuit in *United States* v. *James,* 208 F. 2d 124; the decisions of the Fourth Circuit in *Lovely* v. *United States,* 169 F. 2d 386, and *Walker* v. *United States,* 104 F. 2d 465; the decision of the Fifth Circuit in *Helton* v. *United States,* 221 F. 2d 338; the decision of the Eighth Circuit in *Hartman* v. *United States,* 215 F. 2d 386; and the prior decision of the Tenth Circuit in *Coulston* v. *United States,* 51 F. 2d 178.

H.

Argument.

1.

Special Verdicts.

(a)

While praiseworthy in its intended purpose of ameliorating the harshness and unfairness of the existing law, wherein misdemeanors were, in effect, "converted" or "upgraded" to felonies by utilization of conspiracy indictments,[18] the action of Congress in repealing the former con-

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18. This Court is thoroughly cognizant of the efforts of the Bench and Bar in seeking amendment of the former Statute. In 1925, the Report of the Conference of Senior Circuit Judges strongly, but "unvailingly", protested against the abuses inherent in the prevalent use of conspiracy prosecutions, particularly in utilization of "conspiracy indictments for converting a joint misdemeanor into a felony." See *Krulewitch* v. *United States,* 336 U. S. 440, 446, 69 S. Ct. 716, 719, 720, 93 L. ed. 593 (Concurring opinion, Mr. Justice Jackson, note 2), wherein portions of the Report are quoted, and the Annual Report of the Attorney General for 1925, pp. 5-6.

Under the prior Statute, conspiracies to commit offenses against the laws of the United States were punishable as felonies, though the object of the conspiracy may have been a mere misdemeanor. The authorized imposition of a greater punishment for the unlawful

spiracy statute, Title 18 U. S. Code, Section 88, and in enacting the present statute, Title 18, U.S. Code, Secton 371, created a multitude of new, perplexing problems, clearly not foreseen by Congress, which today vitally affect sound judicial administration in Federal criminal conspiracy prosecutions.[19]

The present conspiracy statute, Title 18, U. S. Code, Section 371, provides:

> "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.
>
> "If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such conspiracy."

(b)

On February 9, 1957, in a prior cause, the grand jury returned an indictment charging petitioners, and others, in a *single* count, with an unlawful conspiracy, in contravention of 18 U. S. C. 371, *supra*, the objects of which were:

Footnote 18 Continued

agreement to commit a minor offense than for the actual commission of the offense was a concept foreign to American standards of justice and fairness and provided a prime topic for comment and criticism by the Bench and Bar in the several decades preceding repeal of the Statute. See, *e. g., Address of the Hon. Grover M. Moscowitz*, Judge, United States District Court for the Eastern District of New York, 3 F.R.D. 380, 391.

19. See Reasons Relied on for Allowance of the Writ, part 1 (d), pp. 16-18. and particularly Footnote 16, *supra*, pp. 16-17, wherein some of the many problems created by the new Statute are set forth.

(a) to import liquor into dry Oklahoma, in violation of 18 U. S. C. 1262, and (b) to carry on the businss of wholesale and retail liquor dealers and willfully fail to pay the requisite Federal taxes therefor, in violation of 26 U. S. C. 5691.

To such indictment, motions to dismiss were filed, asserting numerous grounds including the objection that the indictment charged two distinct conspiracies within a single count and was duplicitious. In March, 1957, argument was had before the court, and it was held that only one offense —a single conspiracy—was charged, and the fact that said conspiracy had several objects did not constitute a charge of several conspiracies. The indictment was held valid and the cause ordered set for trial.

Virtually immediately thereafter, the Government caused the grand jury to return a second indictment, which indictment was returned in this cause on March 15, 1957, charging, in all material respects, the *same single conspiracy*, but *splitting* the single offense into "parts" and charging each "part" or object in separate purported "counts"!

In count I, the indictment charged that "It was a *part of the conspiracy* that defendants would wilfully import intoxicating liquors into the State of Oklahoma * * *" in violation of 18 U. S. C. 1262. (R. 13-14; italics ours.)

And, in count II, the indictment charged that "It was a *part of the conspiracy* that the defendants would carry on the business of wholesale and retail liquor dealers and wilfully fail to pay the special taxes therefor * * *" in vioation of 26 U. S. C. 5691. (R. 18; italics ours.)

Motions to dismiss this second indictment, and each purported "count" thereof, were filed, challenging the indictment on various grounds, including the objection that, on its face, the indictment sought to charge but a single conspiracy and attempted to split the offense into "parts," thereby failing to charge in either "count" the complete conspiracy sought to be charged, contrary to the interdiction of the Sixth Amendment. (R. 22-25, 31, 32, 36, 40, 41, 45-46)

The motions were overruled, the second indictment held valid, and the cause set for trial. Thereupon, the Government dismissed the first indictment, and trial was had upon the two "count" second indictment.

Though holding that the indictment charged but a single conspiracy in violation of the conspiracy statute, 18 U.S.C. 371, the trial court refused to permit the return of a single general verdict of "guilty" or "not guilty" and submitted the cause to the jury, over objection of the defendants, under instructions, and with forms for verdicts, requiring the return by the jury of separate "special verdicts" of "guilty" or "not guilty" as to the two "parts" or objects of the conspiracy![20]

The submission of the unprecedented forms for special verdicts, and the denial to the defendants of their fundamental and Constitutional right to a single general verdict of "guilty" or "not guilty" of the single conspiracy charged, constituted a violation of fundamental Due Process! *Gray* v. *United States,* (8 Cir.) 174 F. 2d 919, cert. den. 338 U. S. 848, 70 S. Ct, 90, 94 L. ed. 519.

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20. The trial court's instructions to the jury are, with a form of the verdict submitted, reproduced in an appendix pp. 64-66, 68-70.

In *Gray,* each of the four counts charged a separate offense of introducing and delivering for shipment in interstate commerce a misbranded article in violation of the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 331 (a), *et seq.*, and charged numerous specific ways in which the misbranding was allegedly accomplished. Over objection of the defendant, the trial court submitted forms for special verdicts as to each count and required special findings as to the manner in which the misbranding was accomplished.

Denouncing the submission of special verdicts as unprecedented and "an innovation in American criminal practice," the Eighth Circuit held that the departure from established criminal procedure constituted a denial of Due Process and necessitated reversal of the conviction (174 F. 2d 919, 923, 924):

> "* * * (Appellant) contends * * * there was no power or discretion in the court to require * * * verdicts * * * in the nature of * * * special interrogatories and answers thereto * * * permissible in civil actions but which have no place in criminal procedure. His position is * * * that upon the plea of not guilty the only issue for the jury joined by the charge * * * and the plea is the *general issue* of 'guilty' or 'not guilty,' and that the jury must be required to respond to that issue by a *general verdict.* * * *
>
> "* * * counsel again asserts * * * he has found 'no statute, Rule of Criminal Procedure or precedent of decision' sanctioning the delivery of such a form of verdict to the jury for the purpose of returning their verdict in a criminal case * * *. We think, as stated by the court in *Anderson* v. *United States,* 9 Cir., 273 F. 677, 679, that 'it is not the practice of the federal courts in criminal cases to call for special verdicts.' * * * And

> we are constrained to conclude that *the delivery of these forms to the jury and the direction to fill them out with several declarations of guilty or not guilty* * * * *present an innovation in American criminal practice.* * * * The vesting of discretion in the trial court * * * in civil actions * * * by Rule 49 * * * is no indication of authority to use it in criminal trials. In such trials *the practice has been settled* time out of mind to charge but one crime in one count, to accept but one general plea to it and *to call upon the jury to make but one general response, guilty or not guilty.* Such established procedure was obviously departed from here over appellant's objection and it may not be held that such a departure did not affect appellant's substantial right to be tried according to law. It is not the function of the courts subordinate to the Supreme Court to introduce innovations of criminal procedure. The action of the court requiring the special verdicts duly excepted to by appellant constituted error." (Italics ours.)

The submission to the jury by the trial court in this cause of special verdicts denied to the defendants their fundamental right to a single, general verdict and is diametrically opposed to the holding of the United States Court of Appeals for the Eighth Circuit in *Gray* v. *United States, supra.*

It is not surprising that the unauthorized submission of special verdicts, requiring separate declarations by the jury of "guilty" or "not guilty" as to each "part" or object of the single conspiracy, thereby permitting *compromise verdicts,* in fact resulted in the compromise verdicts as to 14 defendants, who were found *guilty of that part* of the conspiracy which charged as an object importation of

liquor into dry Oklahoma, a misdemeanor, and *not guilty of that part* of the conspiracy which charged as an object willful failure to pay Federal liquor dealer taxes, a felony.

Query: Are not partial verdicts of guilty of part only, and not guilty of part, of a single, indivisible offense, in law, verdicts of not guilty?

By its holding affirming the submission of special verdicts, the decision of the Tenth Circuit, in the cause below, is irreconcilably in conflict with the decision of the Eighth Circuit in *Gray* v. *United States, supra.*

Truly astounding is this Tenth Circuit holding in view of the court's further holding that there was *no evidence* to establish *any agreement or conspiracy* to fail to pay Federal liquor dealer taxes and that the trial court had *erred in submitting* the second count of the conspiracy to the jury!

Is Due Process afforded a defendant by subjecting him to the oppression, confusion and danger of compromise inherent in the separate submission of partial verdicts as to each of two alleged "parts" of a single alleged offense, when, as a matter of law, the evidence excludes the existence of one of the "parts"?[21]

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21. The situation is analogous to the erroneous submission by the court of an instruction on voluntary manslaughter in a murder case, where the evidence raises but two issues: Guilty of murder as charged, or not guilty by reason of self-defense. The possiblity exists, and it frequently occurs, that a compromise verdict of guilty of voluntary manslaughter results, though, if faced with the determination solely of guilt or innocence of the single offense of murder charged and in issue, acquittal might have resulted. Such erroneous injection of an offense not charged, or necessarily included therein, and *in issue* under the evidence clearly constitutes reversible error.

In considering the question of the power or authority of a Federal district judge to submit special verdicts in Federal criminal prosecutions, the decisions of the various United States Courts of Appeal are in hopeless and irreconcilable conflict.

We have noted the holding of the Eight Circuit in *Gray* that the submission of special verdicts in a Federal criminal prosecution is unprecedented and constitutes such a departure from established procedure as to violate Due Process.

Diametrically in conflict is the decision of the Tenth Circuit in the cause below, affirming and approving the utilization of special verdicts, in lieu of general verdicts, though over objection of the defendants.

Also in conflict with the Tenth Circuit holding is the decision of the Ninth Circuit in *Anderson* v. *United States,* 273 Fed. 677, cited and approved by the Eighth Circuit in *Gray*. While *Gray* does not decide whether the court has the power to submit special verdicts, *if requested by the defendant, Anderson* holds that the refusal of a defendant's request of a special verdict or special findings is not error.

The gratuitous footnote *obiter dicta* of the Fifth Circuit in *Williams* v. *United States,* (5 Cir.) 238 F. 2d 215, 217, 218, cert. den. 352 U. S. 1024, 77 S. Ct. 589, 1 L. ed. 2d 596, more than any other cause, has served to cloud and confuse this segment of the law of conspiracy, and is undoubtedly responsible for the erroneous action of the trial court in the cause below.

In *Williams,* the issue of special verdicts was not before the court and its holding was merely that the *failure* of the *defendant to request* a special verdict, where the conspiracy charged felony and misdemeanor objects constituted

a *waiver* of any objection which he might have to a general verdict and to punishment as for a felony upon the return of a general verdict of guilty.[22]

Presumably for the "guidance" of lower Federal courts, the court in *Williams* voluntarily observed that the dilemma of punishment under the conspiracy statute could be circumvented by charging the felony objects and the misdemeanor objects in separate counts. However, the court made no suggestion as to how the conspiracy was to be submitted to the jury and did not suggest abrogation of general verdicts or utilization of special verdicts in cases where the defendant objected to their use.

Clearly, the court's dictum in *Williams* merely compounded the confusion!

A *fifth divergent view* is presented in *United States* v. *Ogull,* (D. C. S. D. N. Y.) 149 F. Supp. 272! The prosecution in *Ogull* was for "unlawful trafficking" *in narcotics* and for conspiring so to do between April and September, 1956. On July 19, 1956, 21 U. S. C. 174 was amended to increase the maximum punishment for such conspiracies. The evidence presented an issue of continued membership in the conspiracy after the effective date of the amendment, which, if established, would authorize imposition of the increased punishment provided by the amendatory act.

In *Ogull,* contrary to the decision of the Tenth Circuit, the trial court recognized the fundamental right of the de-

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22. Appellant in *Williams* in fact conceded that the evidence was sufficient to sustain findings of the existence of each of the seven charged objects as objects of the conspiracy. His argument was simply that the court could not know whether the jury had found the existence of a felony object, and therefore the court should not punish as for a felony.

fendant to have his guilt or innocence determined by a general verdict and submitted a general verdict to the jury. However, to determine imposition of punishment *after conviction*, if verdicts of guilty were returned, the court submitted special verdicts for findings as to membership of each defendant in the conspiracy after a specified date. No objection to this procedure was raised by the defendants or the Government.

Even this compromise view lacks approval by statute, rule, or decision of this Court. *Must* the trial court, prior to imposition of punishment as for a felony, submit special verdicts to the jury, after conviction upon a general verdict of guilty of a charged conspiracy with alleged felony and misdemeanor objects, in order to determine whether the jury found the existence of a felony object? *May a defendant, by request, compel* the submission of special verdicts after conviction by the jury's general verdict of guilty as charged, in order to obtain the benefit of the misdemeanor provisions of the conspiracy statute?[23]

The 1948 revision of the Federal conspiracy statute created a dilemma which has perplexed and will continue to perplex appellate and trial courts, prosecutors, defendants and counsel. With the growing use of Federal conspiracy indictments, the confusion and conflict will inevitably be-

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23. What did Congress mean by a conspiracy to commit a misdemeanor only? Can the intent of Congress be thwarted by merely charging a felony object as to which no evidence is adduced or intended to be adduced? Must the evidence establish the existence of a felony object to justify punishment as for a felony? How may the courts determine the existence of a felony object in a conspiracy charging felony and misdemeanor objects?

come more acute. Inherent in *every* Federal conspiracy prosecution charging felony and misdemeanor objects are the previously noted problems of a proper indictment, authority for special verdicts before and after conviction, and determination by the court of the maximum sentence imposable.[24]

The problem is of grave national importance in preserving sound administration of justice in the lower Federal courts. It presents vital questions of "first impression" as to Federal criminal procedure which require and are deserving of declaration by this Court of a Rule of uniform practice and procedure in such conspiracy prosecutions.

2.

Implied Crimes

> "* * * *Few instruments of injustice can equal that of implied or presumed or constructive crimes. The most odious of all oppressions are those which mask as justice.*"
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> *Krulewitch* v. *United States,* 336 U. S. 440, 457-458, 69 S. Ct. 716, 725, 93 L. ed. 593 (concurring opinion, Mr. Justice JACKSON; italics ours).

The opinion of the United States Court of Appeals for the Tenth Circuit, in the cause below, is in direct and irreconcilable conflict with prior decisions of this Court in *Krulewitch* v. *United States, supra,* and *Grunewald* v. *United States,* 353 U. S. 391, 77 S. Ct. 963, 1 L. ed. 2d 931.

In embracing and adopting the odious doctrine of implied crimes and implied conspiracies, foreign to our traditional philosophy of the non-existence of crimes against

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24. See Footnote 16, *supra,* pp. 16-17.

the United States except as denounced by statute and of the necessity for strict construction of criminal statutes, the opinion of the court below threatens the very fabric and framework of American criminal jurisprudence.

Though finding an agreement and conspiracy for a local City "protection pay-off," *solely* in violation of the laws of the State of Oklahoma, the court below *implies, creates and superimposes* an agreement and conspiracy to import liquor into dry Oklahoma, in violation of Federal law, by pyramiding inference upon inference.

> "The record * * * establishes a conspiracy * * *. We also think that the evidence shows that the combination from its inception *contemplated* the unlawful importation of intoxicating liquor into Oklahoma. * * * Without imported liquors, the combine would have had no liquor business to control in Tulsa.
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> * * * * * * * *
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> "* * * The *inference* is inescapable that it was *understood* that a substantial portion of the liquor to be disposed of in Tulsa was to be imported by one of the conspirators * * *." (Opinion, pp. 11, 13, 14, appendix, pp. 52, 54; italics ours.)

Thereby, the court below *judicially creates an implied conspiracy* different and broader in scope, character and content than the conspiracy established by the evidence and contrary to the actual agreement and conspiracy of the conspirators!

Clearly, this is in direct conflict with the holding of this Court in *Direct Sales Co.* v. *United States,* 319 U. S. 703, 711, 63 S. Ct. 1265, 1269, 87 L. ed. 1674.[25]

> "* * * charges of conspiracy are not to be made out by piling inference upon inference, thus fashioning what, in * * * (*United States* v. *Falcone,* 311 U. S. 205, 210, 61 S. Ct. 204, 206, 85 L. ed. 128) was called a drag-net to draw in all substantive crimes." (Parenthetical interposition ours.)

The "implied agreement" to import liquor is wholly unsustained by the Record, and is contrary to the testimony of Hirrlinger and Edwards, the sole witnesses testifying relative to the conspiracy agreement. Their testimony affirmatively established that importation was *neither considered nor discussed!* The *sole object* of the conspiracy was the unlawful exaction of tribute from City liquor dealers in return for failure of City Police officials to enforce the laws of the State of Oklahoma and the City of Tulsa prohibiting the sale of liquor within this dry State.[26]

The "inferences" which the court below draws, are without foundation in the Record and are contrary to the evidence adduced. The court, in effect, *implies as a matter*

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25. The holding of the Tenth Circuit is also in direct conflict with the decision of the Second Circuit in *United States* v. *Dellaro,* 99 F. 2d 781; the decision of the Third Circuit in *United States* v. *Russo,* 123 F. 2d 420; the decision of the Fifth Circuit in *Rent* v. *United States,* 209 F. 2d 893; and prior decisions of the Tenth Circuit in *Thomas* v. *United States,* 57 F. 2d 1039, *Bacon* v. *United States,* 127 F. 2d 985, and *Gerson* v. *United States,* 25 F. 2d 49.

26. See: Part E (Statement of the Case: The March 1956 Conspiracy), pp. 6-11, and particularly Footnotes 6, 12, 14 *supra,* pp. 8, 10, 11-13, for the pertinent testimony of Charles Hirrlinger and Bill Edwards.

of law the existence of an agreement and conspiracy of *these conspirators* to import liquor into Oklahoma![27]

This is truly an "ominous expansion of the accepted law of conspiracy"! *Krulewitch* v. *United States, supra.*

Directly in point and controlling of this cause is the prior decision of the court below in *Wilder* v. *United States,* 100 F. 2d 177, 183, holding that proof of an agreement for a "protective pay-off" in which county law enforcement officers would fail to enforce the State prohibitory liquor laws constituted, at most, an unlawful conspiracy to violate the laws of the State, and, as a matter of law, constituted no violation of Federal law.

> "It is unnecessary to express an opinion here as to whether the evidence proved a conspiracy to violate the laws of the State of Oklahoma * * * as it is the province of the courts of the state to determine that question. But county officers and their deputies do not bear any official duty by virtue of their positions to enforce the * * * laws of the United States. And their mere

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27. The "irrebuttable" inference or presumption which the court's opinion raises ignores the many inferences and reasonable hypotheses consistent with innocence. Inherent in the court's "inference" that the conspirators agreed to import liquor is the *unsupported premise* that Tulsa liquor dealers were dependent upon the conspirators for their supply of liquor. Nothing could be farther from existing fact. The testimony of Bill Edwards completely refutes the basis for the court's "inference." See Footnote 14, *supra*, p. 12.

The farce of Oklahoma "prohibition" has received national attention in various periodicals. The "dry" State of Oklahoma is perhaps one of the "wettest" States in the Union. The availability and flow of liquor has never been a problem. It was so imported into Oklahoma prior to the 1936 conspiracy; it was so imported by innumerable persons wholly unconnected with the conspiracy during its brief existence; it has been so imported since termination of the abortive scheme; and in all likelihood, will continue to be imported unlawfully so long as Oklahoma remains "dry".

failure to enforce such laws or to prevent a conspiracy to violate them, without more, is not enough to support a conviction upon a charge of violating Section 37 of the Criminal Code. * * * *Weniger* v. *United States,* 9 Cir., 47 F. 2d 692; *Rossi* v. *United States,* 9 Cir., 49 F. 2d 1.

"* * * Viewed in the light most favorable to the Government, no substantial evidence was adduced to show that these appellants formed a *conspiracy* * * * *to violate the laws of the United States.* * * * Laying aside the question whether they acted together in *extorting money* from others *for protection against prosecution under the laws of the state* or otherwise participated in a concert of action to prevent the enforcement of such laws, there was no substantial evidence * * * that they formed or furthered an agreement * * * having for its object and purpose the violation of the laws of the United States." (Italics ours.)

The decision of the court below is in irreconcilable conflict with its prior holding in *Wilder,* and vastly extends federal jurisdiction. We respectfully submit that *Wilder* correctly states the limits of Federal intervention in State affairs.

The unlawful conspiracy of March 1956, as defined by the agreement of the conspirators, constituted no violation of Federal law and *conferred no jurisdiction* on the trial court. By its opinion, and the doctrine of "implied conspiracies" therein adopted, the court below usurps the jurisdiction of the courts of the State of Oklahoma and further encroaches upon the powers reserved to the States by the Tenth Amendment.

Fully in accord with the decision in *Wilder*, and irreconcilably in conflict with the decision of the court in the cause below, are the decisions of the United States Court of Appeals for the Fourth Circuit in *Walker* v. *United States*, 104 F. 2d 465; the decision of the Fifth Circuit in *Railton* v. *United States*, 127 F. 2d 691; and the decisions of the Ninth Circuit in *Weniger* v. *United States*, 47 F. 2d 692, and *Rossi* v. *United States*, 49 F. 2d 1.

This Court has viewed with disfavor "attempts to broaden the already pervasive and wide-sweeping nets of conspiracy prosecutions." *Grunewald* v. *United States*, 353 U. S. 391, 404, 77 S. Ct. 963, 974, 1 L. ed. 2d 931. In *Grunewald* and *Krulewitch*, this Court rejected efforts to extend the agreement of the conspirators by *implying* a subsidiary conspiracy of concealment.

Does not the basic philosophy of these cases require rejection of the implication by the court below of an overriding, implicit, unmanifested agreement and conspiracy to violate Federal law? May jurisdiction be extended or usurped by implied Federal conspiracies?

We think, as stated by the late Mr. Justice JACKSON in his landmark concurring opinion in *Krulewitch* (336 U. S. 440, 456-457, 69 S. Ct. 716, 724-725, 93 L. ed 593):

> "It is difficult to see any logical limit to the 'implied conspiracy,' • • •
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> • • • • • • • •
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> "I do not see the slightest warrant for *judicially introducing a doctrine of implied crimes or constructive conspiracies.* It either adds a new crime or extends an

old one. * * * it is well and wisely settled that *there can be no judge-made offenses* against the United States and that every federal prosecution must be sustained by statutory authority. *No statute authorizes federal judges to imply, presume or construct a conspiracy* except as one may be found from evidence. * * * it is * * * fundamentally and irreconcilably at war with our presumption of innocence.

"* * * *We should disapprove the doctrine of implied or constructive crimes in its entirety and in every manifestation.* * * *" (Italics ours.)

This is the sole philosophy consistent with freedom!

3.

Fair and Impartial Trial.

Charged by indictment in a mass conspiracy trial for an unlawful conspiracy to import liquor into Oklahoma and to evade payment of Federal liquor dealer taxes, twenty defendants, including these fifteen petitioners, were subjected to a voluminous mass of testimony by some 123 witnesses in the lengthy 8 day trial, *at least 95%* of which pertained to separate, unrelated conspiracies, offenses, arrests, and other irrelevant, immaterial and prejudicial acts and transactions![28]

The testimony adduced is recorded in some 1400 pages in the original record. It is significant, however, that only a minute portion of the testimony adduced pertained to the single conspiracy finally submitted to the jury. Only *two witnesses* testified as to the existence of the March 1956 conspiracy and only four other witnesses testified to corroborate

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28. See Footnote 15, pp. 13-14, *supra*, for the major instances of prejudicial testimony adduced.

the testimony of Bill Edwards that "protection" payments were made to him!

Typical of the prejudicial testimony adduced was testimony pertaining to:

The separate, unrelated conspiracy of Boone, Carter and Graves for a "protection pay-off" in 1950-1952, four to six years prior to the submitted March 1956 conspiracy (R. 218-231, 233-236, 239-242, 242-248, 253-255, 379-380, 380-387, 573-578);

The prior conspiracies of Bill Edwards and defendant Gray, whose conviction was reversed on appeal, in the period 1953-1956 (R. 317-322);

The prior conspiracies of Epps and defendant Bulloch, who was acquitted upon motion for judgment of acquittal, in the years 1948 and 1953 (R. 164-177, 189, 197-204, 210-216, 231-233, 614-615);

The separate "pay-off" conspiracy involving Moore and petitioner Peterson during July-December 1956, subsequent to the abortive March 1956 conspiracy (R. 690-694, 700-701);

The wholly unrelated, subsequent "pay-off" conspiracy centering around Massey and petitioner Martin Edwards, which commenced in July, 1956 (R. 745-762, 765-771, 775-776, 707-712, 715-716);

Importation of liquor by innumerable persons in the years 1948, 1949, 1950, and early 1951, when the Federal Liquor Enforcement Act was inapplicable and it was *not unlawful* to import liquor into Oklahoma (R. 259-263, 299-304, 311-317);[29]

29. This testimony was stricken by the court and the jury admonished not to consider it. (R. 859)

Importation of liquor into Oklahoma in the years 1951-1956, prior to the submitted conspiracy (R. 304-306, 309-311, 317-324, 326-328);[30]

Payment or non-payment of Federal liquor dealer taxes in the years prior to March, 1956 (R. 401-413);[31]

Add to the cumulative impact of this overwhelming mass of prejudicial testimony the inflammatory and insidiously prejudicial testimony concerning prostitution, which was highlighted by a parade of some 8 prostitutes, a "madame," a panderer, a bail bondsman, and an attorney who had represented prostitutes for some 20 years, and blatant newspaper headlines for several days! (R. 624-670)

The trial court at all times recognized that the only charge of the indictment was a conspiracy to import liquor

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30. Though evidence solely of prior substantive offenses by some defendants, the trial court instructed the jury that it could consider the evidence of importation of liquor in the years 1951-1956 in determining an "intent" of the conspirators to conspire in 1956. (R. 957)

This is fundamental error. *Boyd* v. *United States*, 142 U. S. 450, 458, 12 S. Ct. 292, 295, 35 L. Ed. 1077; *Michelson* v. *United States*, 335 U. S. 469, 475-476, 69 S. Ct. 213, 218-219, 93 L. Ed. 168; *Helton* v. *United States*, 5 Cir., 221 F. 2d 338, 340-341; *Hartman* v. *United States*, 8 Cir., 215 F. 2d 386, 391-394; *United States* v. *James*, 2 Cir., 208 F. 2d 124, 125; *Lovely* v. *United States*, 4 Cir., 169 F. 2d 386, 388-389; *Railton* v. *United States*, 5 Cir., 127 F. 2d 691, 692-693; *Walker* v. *United States*, 4 Cir. 104 F. 2d 465; *Coulston* v. *United States*, 10 Cir., 51 F. 2d 178, 180-181; *Crowley* v. *United States*, 9 Cir., 8 F. 2d 118; 1 Wigmore, Evidence (3rd ed. 1940), sec. 194, pp. 646, 647, 650-652; 1 Wharton, Criminal Evidence (12th ed. 1955), sec. 248, p. 567.

31. The court also permitted the jury to consider this evidence in determining an "intent" to conspire.

It should be noted that on appeal the Tenth Circuit held that the evidence adduced was wholly insufficient to establish any agreement or conspiracy to evade payment of the Federal liquor dealer taxes and that the trial court erred in submitting that part of the conspiracy to the jury. (Opinion pp. 11, 12, 22, appendix, *infra*, pp. 52, 60)

and to evade payment of Federal taxes. On numerous occasions, the court stated that neither prostitution as such nor a conspiracy to exact tribute from prostitutes were violations of Federal law or even charged by the indictment![32] The court, however, nonetheless admitted the evidence over objection of the defendants!

Fully two days later, after the jury had heard the testimony of some 36 other witnesses, the trial court held that the evidence of prostitution had not been "connected up" with the charged conspiracy and admonished the jury not to consider it. (R. 867) However, motions of the defendants to strike the testimony and for mistrial were denied on the amazing ground that the evidence was not prejudicial because it was not "connected up" in any way with any of the defendants! (R. 832, 833-834, 864)

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32. The first ruling of the trial court came on objection of the defendants to the Government's *opening statement*. (R. 156) Similar rulings were made as to gambling, another uncharged offense as to which prejudicial evidence was adduced. (R. 166-167) Throughout the trial, prejudicial testimony was adduced and admitted over objection of the defendants, to be stricken later if not "connected up."

One of the early rulings by the court as to admissibility of evidence concerning prostitution and gambling was the following:

> "Mr. Page: If Your Honor please, come now the defendants and move that this testimony concerning prostitution and any gambling raid be stricken as having *no probative value to the issues* in this case.
>
> "The Court: Overruled. * * * I should say to the jury * * * however, because I anticipate that this same question will arise from time to time, that you should have in mind that *the charge made* in the indictment with which we are concerned in this case *has to do only with an alleged conspiracy pertaining to liquor*. That is, an alleged conspiracy to import liquor * * * in violation of federal law, and to sell both at wholesale and retail without paying the special tax as required by federal law. *The indictment does not contain any accusation or charge with reference to gambling, or any other vice;* and any testimony that you hear that pertains to gambling or any other vice— and I might mention the other thing I have in mind because I think we will get to that shortly too—and that is *prostitution*—any evidence presented in that connection can only be considered, if it is in some way connected up with the alleged conspiracy to violate the liquor law. * * *" (R. 437, 438; italics ours)

Can this mass of prejudice to which the jury was subjected throughout the eight-day trial be erased from the minds of the jurors by a single admonition of the trial court at the end of the trial to disregard it?

> "* * * The *naive assumpton* that prejudicial effects can be overcome by instructions to the jury, * * * all practicing lawyers know to be *unmitigated fiction.* * * *"
>
> *Krulewitch* v. *United States,* 336 U. S. 440, 453, 69 S. Ct. 716, 723, 93 L. ed. 593 (concurring opinion, Mr. Justice JACKSON; italics ours).

Is this not "substantial prejudice" and the denial of a fair and impartial trial within the test laid down by this Court in *Kotteakos* v. *United States,* 328 U. S. 750, 764-765, 66 S. Ct. 1239, 1247-1248, 90 L. ed. 1557?

> "* * * the question is, not were they right in their judgment, regardless of the error or its effect upon the verdict. It is rather what effect the error had or reasonably may be taken to have had upon the jury's decision. *The crucial thing is the impact of the thing done wrong on the minds of other men,* not on one's own, in the total setting. * * *
>
> "This must take account of *what the error meant to them,* not singled out and standing alone, *but in relation to all else that happened.* And one must judge others' reactions not by his own, but with allowance for how others might react * * *. This is the important difference, but one easy to ignore when the sense of guilt comes strongly from the record.
>
> "If, when all is said and done, the conviction is sure that the error did not influence the jury, or had but very slight effect, the verdict and judgment should

stand * * * *But if one cannot say, with fair assurance, after pondering all that happened* without stripping the erroneous action from the whole, *that the judgment was not substantially swayed by the error, it is impossible to conclude that substantial rights were not affected.* The inquiry cannot be merely whether there was enough to support the result, apart from the phase affected by the error. It is rather, even so, whether the error itself had substantial influence. If so, or if one is left in grave doubt, the conviction cannot stand." (Italics ours.)

If *this* be not substantial prejudice, is not the judgment of the jury substantially swayed by the added impact of:

The erroneous submission to the jury of count II, which the appellate court held was wholly unsupported by the evidence and should not have been submitted;

The erroneous instruction that the jury could consider prior substantive offenses in determining the existence of an "intent" to conspire;

The erroneous instruction that Federal law is violated by failure to file Forms 52-A and 52-B, which offense was not charged, either as a substantive offense or as an object of the conspiracy, thereby injecting an uncharged offense for the jury to consider in determining guilt of the submitted conspiracy; and,

The erroneous submission of the special verdicts?

Manifestly, substantial rights have been affected and a fair and impartial trial has been denied!

Conclusion.

It is respectfully submitted that the discretion of this Court should be exercised in granting the writ of certiorari as prayed for in this petition.

No *single question* is here presented! No *mere conflict* of decisions in the courts of appeals is relied upon as the basis of review.

An important question of Federal criminal procedure has arisen in Federal conspiracy prosecutions which has perplexed and is perplexing appellate and trial courts, prosecutors, defendants and counsel:

What was the intent of Congress in providing a separate maximum punishment for conspiracies to commit misdemeanors?

How may this intent be effected?

How may or must the trial court determine the maximum punishment imposable?

How may or must the offense be charged and submitted?

May a special verdict be submitted?

May the defendant require submission of a general verdict by objection to utilization of special verdicts?

These are but some of the vital issues unsolved by statute, Rule, or decision of this Court. The hopeless confusion and irreconcilable conflict in the lower court decisions should call for an exercise by this Court of its power of supervision and of its function in declaring uniform Rules of criminal procedure.

There can, we respectfully submit, be no serious question that the dangers to individual rights created by the

lower court's doctrine of implied conspiracies also call for the exercise by this Court of its power of supervision.

> "* * * Few instruments of injustice can equal that of the implied or presumed or constructive crimes. The most odious of all oppressions are those which mask as justice."
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> *Krulewitch* v. *United States,* 336 U. S. 440, 457-458, 69 S. Ct. 716, 725, 93 L. ed. 593.

Equally vital to continued sound administration of justice is the necessity for review by this Court of the disregard of the lower court of *Kotteakos* v. *United States,* 328 U. S. 750, 66 S. Ct. 1239, 90 L. ed. 1557, and the sanctioning by the lower court as "fair and impartial" of a trial, and convictions had thereon, tainted by overwhelming prejudice, violative of fundamental Due Process.

Wherefore, petitioners pray that their petition be granted, that a writ of certiorari issue to the United States Court of Appeals for the Tenth Circuit, and that they be afforded such other relief as may be proper in the premises.

Respectfully submitted,

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APPENDIX.

OPINION.

(January 6, 1958.)

Irvine E. Ungerman, Tulsa, Oklahoma, (Charles A. Whitebook, Manuel Grabel, Maynard I. Ungerman, William Leiter, R. James Unruh, James F. Metzer, Tulsa, Oklahoma, and A. L. Shortridge, Joplin, Missouri, were with him on the brief) for Appellants.

B. Hayden Crawford, United States Attorney, (Russell H. Smith, First Assistant United States Attorney, John Morley, Assistant United States Attorney, and Hubert A. Marlow, Assistant United States Attorney, Northern District of Oklahoma, were with him on the brief) for Appellee.

Before BRATTON, Chief Judge, and PICKETT and LEWIS, Circuit Judges.

PICKETT, Circuit Judge.

The appellants were charged in a two count indictment with conspiring to violate the laws of the United States. The first count alleges that the appellants, with others, conspired to import intoxicating liquor into the dry state of Oklahoma in violation of 18 U. S. C. A. 1262. The second count charged a conspiracy by the defendants to carry on the business of wholesale and retail liquor dealers without paying the special tax required by 26 U. S. C. A. 5691. Each count set forth that the conspiracy continued from about January 1, 1948, to approximately February 21, 1957. At the conclusion of the trial the court found that the evidence

was insufficient to establish a conspiracy prior to March of 1956. Motions for judgments of acquittal for all the defendants except the appellants were sustained. The case was submitted to the jury limited to the question of whether a conspiracy existed in March of 1956 and thereafter. All appellants were found guilty on the first count and only the defendants T. Martin Edwards and John David Hood were found guilty on the second count. Each defendant was sentenced on the first count to be imprisoned for one year and to pay a fine of $1,000. T. Martin Edwards and Hood were sentenced to serve a term of one year on the second count, to run concurrently with the sentence received on the first count. All the defendants convicted have appealed.

One of the principal grounds for reversal is that the evidence does not establish the existence of a conspiracy to violate Federal laws. The Federal Statute makes it a crime to conspire to commit an offense against the United States. The offense is complete when two or more persons combine together to commit an offense against the United States and do any act to effect the object of the conspiracy. 18 U. S. C. A. 371; *O'Neal* v. *United States*, 10 Cir., 240 F. 2d 700. "In determining the question of the sufficiency of the evidence to support a verdict, the inferences to be drawn therefrom are viewed in the light most favorable to the prosecution." *O'Neal* v. *United States, supra; Seefeldt* v. *United States*, 10 Cir., 183 F. 2d 713; *Wilder* v. *United States*, 10 Cir., 100 F. 2d 177. The agreement need not be

in any particular form. By its nature it is seldom susceptible of direct proof. Ordinarily conspiracies can be established only by the acts and conduct of the conspirators and the inferences to be drawn therefrom. *Butler* v. *United States,* 10 Cir., 197 F. 2d 561. Generally convictions will be sustained if the circumstances, acts and conduct of the parties are of such character that the minds of reasonable men may conclude therefrom that an unlawful agreement exists. *O'Neal* v. *United States, supra; Heald* v. *United States,* 10 Cir., 175 F. 2d 878, cert. denied 338 U. S. 859; *Young* v. *United States,* 10 Cir., 168 F. 2d 242,[1] cert. denied 334 U. S. 859.

A summary of the evidence discloses that early in the year 1956 the defendant Jones was a candidate for election to the office of Police and Fire Commissioner for the City of Tulsa, Oklahoma. Sometime during the latter part of February or early in March, Charles Hirrlinger and the defendant McAfee met, at which time McAfee stated that he believed that he could work out a vice protection deal if they could get Jones elected, but it would cost four or five thousand dollars. Shortly thereafter, Hirrlinger and Mc-

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1. In the Young case, the court said:

"It is well to remember that in the very nature of things, unlawful conspiracies are seldom provable by direct and positive evidence. Ordinarily they must be established by circumstantial evidence, and 'it is sufficient if the circumstances, acts and conduct of the parties are of such character that the minds of reasonable men can conclude therefrom that an unlawful agreement exists.' *Garhart* v. *United States,* 10 Cir. 157 F. 2d 777, 781. See also *Wilder* v. *United States,* 10 Cir., 100 F. 2d 177. Nor is it essential that each conspirator participate in or have knowledge of all of the operations of the conspiracy. It is enough if a conspiracy is formed, and the several persons convicted knowingly contributed their efforts in furtherance of it. *Berenbeim* v. *United States,* 10 Cir., 164 F. 2d 679."

Afee met with Jones, and it was agreed that Hirrlinger would talk to Bill Edwards about raising the money. Following these meetings there were numerous conversations between the different individuals above named, and substantial sums of money were delivered to Jones. Bill Edwards was then, and had been for many years, one of the principal importers of intoxicating liquor into the City of Tulsa, substantially all of which was disposed of at wholesale. Sometime in March Bill Edwards, Hirrlinger and McAfee discussed in detail what the organization should be, including the division of the income received from the protection payoff.[2] A few days before the election on April 3, 1956, Bill Edwards, Hirrlinger and Jones met secretly. Jones stated that he intended to make some money if he won the election. The meeting was for the purpose of raising money immediately for the election expenses of Jones and to talk about an organization for the collection of money from those engaged in the liquor, gambling and prostitution business within the City of Tulsa after the election. At that time Jones was given $700.00. He shook hands with Bill Edwards and told him that if he were elected, Edwards would be in control of the liquor business in Tulsa. Jones suggested that he should meet in the future only with Hirrlinger and that it was not a good idea for all of them to get together too often. Prior to the election Edwards received $200.00 from the defendant Lee Johnson, and $900.00 from three Massey

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2. Bill Edwards testified that it was decided that, after expense, Jones was to receive 50 per cent of the income and the remaining 50 per cent was to be divided equally among the three. The expenses were to include a $500 per month payment to Livingston, Tulsa Chief of Police, and $200 per month to each member of the police vice squad.

brothers, which was delivered to Jones. Johnson and the Massey brothers were liquor dealers, and it was understood that if Jones were elected, they were to be given credit for these payments on any exactions which were required thereafter.

Jones was elected, and took office on May 8, 1956. In the latter part of May, Bill Edwards and Hirrlinger met with the defendants Jones, Livingston, Gott, and McAfee, at Hirrlinger's home near Tulsa for the purpose of completing the control and payoff arrangements. Livingston had been appointed Chief of Police and Gott was a long-time head of the Tulsa police vice squad. McAfee was a billiard hall operator in Tulsa. At this meeting specific arrangements were made to require payments from persons who were selling intoxicating liquor, engaging in gambling or prostitution operations. Livingston was the spokesman at this meeting and the division of the money to be realized was drastically changed from the original understanding. The principal difference was a division of 20% each to Livingston and officer Gott, 40% to Jones, and a reduction to 10% for Bill Edwards, Hirrlinger and McAfee together. Bill Edwards was to take charge of the liquor operations, McAfee the gambling, and Hirrlinger the prostitution activities. As to the payments to be exacted from the liquor dealers, Bill Edwards testified that he was to contact the bootleggers and let them know that he was in a position to help them in their business if they would cooperate. The cooperation included the payment of $100.00 per month. Those operating places known as "walk-ins" were to pay

a minimum of $250.00 per month. They were told that those who did not make the payments would be reported to the police vice squad for raiding and arrest. The vice squad would be given the information regarding those who paid, including a complete description of their cars. They would not be molested by the vice squad, but given a free range. The liquor dealers were assured that price cutting activities were not to be tolerated. It was understood that if the required payments were not made, the vice squad should take necessary and appropriate action to put them out of business.

Early in June, 1956, Bill Edwards, Hirrlinger, Jones, Livingston, Gott and McAfee met again. At this meeting Livingston, who seemed to assume the leadership in the scheme, insisted that Bill Edwards' brother Martin be allowed in on the deal. There was bitter feeling between Bill Edwards and his brother, who was also an importer of large quantities of liquor into Tulsa. Bill objected strenuously, even to the extent of saying that if his brother was in, he was out. The question was put to a vote, and Bill Edwards was the only one who voted to keep Martin out. No immediate action was taken to include Martin. There were numerous meetings of different individuals of this group thereafter, from which emerged the contemplated systematic plan for obtaining money from those in the liquor business, and other businesses, in exchange for protection to be furnished them in their illegal activities. During all this time Bill Edwards had authority to determine which liquor dealers would be permitted to buy protection and

which would not. He exercised his authority city-wide. He was in posittion to give instructions directly to members of the police vice squad or through Jack Gott. They followed instructions or were removed. He did not require the liquor dealers to buy liquor from him, but he testified that under the arrangement he had all the business he could handle and didn't have room for any additional. He also had the power to cut a liquor dealer off if he refused to trade with him. During this time, for the purpose of carrying out the agreements, Bill Edwards made substantial collections from different liquor dealers. If anyone who had been paying was raided, he was to get his money and liquor back. When liquor dealers felt they were not getting the promised protection and that the non-paying dealers were not being properly taken care of by the vice squad, they complained to Bill Edwards. All of the collections, including those from gambling and prostitution, were pooled, and 90% of it was turned over to Gott for distribution under the arrangement.

During this period the wholesale liquor business of Bill Edwards flourished. He made almost daily purchases of large amounts of liquor from the defendant Gray, who operated wholesale liquor stores in Missouri near the Oklahoma state line. Most of these purchases were transported to Tulsa in automobiles with special equipment on them. In July, 1956 Livingston prevailed and Bill Edwards was replaced by his brother Martin, who took charge of the liquor business with little change in the existing procedure.

Martin made the collections personally or by a designated agent. About the same time, Hirrlinger quit the organization.

The record so clearly establishes a conspiracy and acts to effectuate it, that further discussion is unnecessary. We also think that the evidence shows that the combination from its inception contemplated the unlawful importation of intoxicating liquor into Oklahoma. Bill Edwards, who was in charge of the liquor end of the deal, had been for many years one of the principal importers of intoxicating liquor into Tulsa. When he was ousted, at the insistence of Livingston, his replacement was also a known importer of liquor. Without imported liquors, the combine would have had no liquor business to control in Tulsa.

As to the second count, there is no evidence in the record from which it may be inferred that the failure to pay the statutory tax for carrying on the business of wholesale or retail liquor dealer had anything to do with the conspiracy or was even considered at any time by the conspirators. There was evidence of substantive violations, but none of conspiracy. The second count should not have been submitted to the jury as to any of the defendants.

The appellants contend that, considering the evidence in the light most favorable to the prosecution, all that is shown is a conspiracy to protect bootleggers from raids and prosecution by city officials, which brings the case within the rule of *Wilder* v. *United States, supra*. In the *Wilder* case it was charged that the conspirators agreed to engage

in the business of distilling whiskey at various places without furnishing the bond required by Federal law, or paying the required tax. The defendants who were state officers, exacted payments from the still operators for being allowed to continue their business. Referring to the conduct of the officers, the court said: "their mere failure to enforce such laws or to prevent a conspiracy to violate them, without more, is not enough to support a conviction of a charge of violating * * *" the Federal Conspiracy Statute. The court continued that it was "necessary to prove that they consented in some affirmative way to become a party to the concert of action." Therein lies the distinction between the *Wilder* case and this case. Here it was not a matter of inaction on the part of the city officials Jones, Livingston and Gott. They were the original conspirators, along with Bill Edwards, Hirrlinger and McAfee, in developing and carrying out this sordid arrangement which included taking of money from dealers in intoxicating liquor in Tulsa, who necessarily were to sell liquor imported into Oklahoma. The fact that Jones, Livingston and Gott were city officials, sworn to enforce city ordinances, does not prevent them from conspiring to violate the laws of the United States.[3]

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3. The trial court's instruction on this subject correctly states the law. It is as follows:

"You are instructed that the police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation Act or the Internal Revenue laws of the United States. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose of aiding in the enforcement of Federal laws pertaining to the transportation and sale of liquor would not be sufficient to prove a conspiracy upon the part of such officers to violate those laws. But, if such police officers enter into an agreement to aid and assist others in carrying on the liquor business and knowingly and intentionally cooperate with others in the importation of liquor into Oklahoma in violation of Federal law, or aid and assist others in carrying on the business of either a wholesale or a retail liquor dealer, and wilfully failing to pay the special tax as required by Federal law, then such police officers do commit an offense against the United States."

The inference is inescapable that it was understood that a substantial portion of the liquor disposed of in Tulsa was to be imported by one of the conspirators, who was authorized to designate the local retail liquor dealers who were to be protected. The case is more like *Briggs* v. *United States,* 10 Cir., 176 F. 2d 317, cert. denied, 338 U. S. 861, rehearing denied 338 U. S. 882; and *Parnell* v. *United States,* 10 Cir., 64 F. 2d 324, than *Wilder.*

As to the other defendants, the question remains whether they, knowing of the conspiracy, entered into it. A person does not become liable as a conspirator unless he knows of the existence of the conspiracy, agrees to become a party, and with that knowledge commits some act in furtherance thereof. *United States* v. *Falcone,* 311 U. S. 205; *Laska* v. *United States,* 10 Cir., 82 F. 2d 672, cert. denied 298 U. S. 689; *Skelly* v. *United States,* 10 Cir., 76 F. 2d 483, cert. denied 295 U. S. 757; *Booth* v. *United States,* 10 Cir., 57 F. 2d 192. This knowledge and participation may be inferred from the circumstances, acts and conduct of the parties. The evidence is quite clear and without dispute that T. Martin Edwards entered into the conspiracy with full knowledge thereof, made the collections which had theretofore been made by his brother, and also continued his business as an importer of intoxicating liquor which was to be disposed of at wholesale, principally to those who were paying for protection.

The defendants Jackson, Cole, Harp, Peterson and Stephens were police officers who were assigned to the vice squad after the formation of the scheme by the original

conspirators. The initial plan was that these men were to receive $200.00 per month for their participating in the conspiracy. There was some evidence that they were to get preference in connection with their duties, but there is no direct evidence that any payments of money were made to them or that the other benefits were received. The record is, however, replete with evidence from which it can be inferred that each of them knew of the scheme and assisted in carrying out its purpose. They protected those who paid, and raided the nonconformists when directed to do so by Bill Edwards, T. Martin Edwards or Gott.

The defendants Oakley, Griffing, Johnson, Rucker and Hood were liquor dealers in Tulsa. They were informed of the central combination to control the dissemination of liquor in the city and what was required of them if they desired to continue in business. Each accepted the terms and became participants. In discussing a similar situation, in *Parnell* v. *United States, supra,* this Court said:

> "The trial jury was justified in finding the conspiracy was formed as charged. It began by a deliberate agreement. The exactions put on the several liquor violators resulted in nothing more than an entry by them into the conspiracy. In other words, they might operate, if they joined in the corrupt liquor scheme. The evidence centers around the still on the Tidwell farm, and it was within the province of the jury to find that transaction was an overt act in furtherance of the conspiracy. Bellah doubtless knew it was on foot when he applied for the privilege of locating a still on that place and paid the protection money for it. There was no separate plan to conspire with different groups. The

law violators when informed of the opportunity contributed and became parties to the liquor program in the county."

The defendant Gray was an operator of several liquor stores in Missouri. Before and after the scheme agreed upon by the original six conspirators, he sold large quantities of liquor to Bill Edwards and others, which he knew was to be taken into the dry state of Oklahoma. During the time that the conspiracy was in effect, but after Bill Edwards had been ousted, Gray went to Tulsa to confer with Bill Edwards, who had threatened to discontinue purchases from him. So far as the evidence shows, this trip was solely for the purpose of trying to prevent a discontinuance of a business relationship of long standing. The evidence may be sufficient to show that he aided and abetted the importation of intoxicating liquor into Oklahoma, or even conspired with Bill Edwards and others to do so, but there is not a scintilla of evidence that he knew of the conspiracy charged in the indictment and consented to become a party, or knowingly did any act to accomplish its purpose. In *Van Huss* v. *United States*, 197 F. 2d 120, we quoted from *Direct Sales Co.* v. *United States*, 319 U. S. 703, 709, as follows: "one does not become a party to a conspiracy by aiding and abetting it, through sales of supplies or otherwise, unless he knows of the conspiracy; and the inference of such knowledge cannot be drawn merely from knowledge the buyer will use goods illegally." Cf. *Ritter* v. *United States*, 10 Cir., 230 F. 2d 324. Gray's motion for acquittal should have been granted. See *Bacon* v. *United States*, 10 Cir., 127 F. 2d 985; *Marcante* v. *United States*, 10 Cir., 49 F. 2d 156.

The defendants charge that the United States Attorney was guilty of willful misconduct and gross disregard of his duty, as a representative of the United States, by using methods calculated to deprive these defendants of a fair and impartial trial. This accusation is based upon the claim that many of the witnesses called testified to activities of some of the defendants in relation to prostitution, gambling, graft and corruption in Tulsa, which had no connection with the charge, and that the sole purpose of such evidence was to prejudice the jury against the defendants. We find these intemperate accusations wholly without justification. There is nothing in the record to indicate that the District Attorney acted deliberately and in bad faith. The evidence is without conflict that the conspiracy not only included the control of the sale of intoxicating liquor in Tulsa, but also the control of prostitution and gambling. The income which the scheme derived from each source went into a common pot which was divided according to the agreement.

It is elementary that the evidence of other offenses is not admissible in the trial of a criminal offense. This rule is not applicable if the evidence is introduced to prove intent or to show a course of conduct, or tends to prove the crime charged. *Baish* v. *United States,* 10 Cir., 90 F. 2d 988; *Minner* v. *United States,* 10 Cir., 57 F. 2d 506; *Butler* v. *United States,* 10 Cir., 53 F. 2d 800. Control of prostitution and gambling was part of the conspiracy; it was so interwoven with the liquor control established by the conspirators that it was impossible to separate them, but the trial court was extremely careful throughout the entire

proceeding in advising the jury as to what extent such evidence should be considered by it. Consequently, no error resulted from the reference by different witnesses.[4] *Holt* v. *United States*,10 Cir., 94 F. 2d 90; *Metzler* v. *United States*, 10 Cir., 64 F. 2d 203. We are satisfied from an examination of this entire record that the court's admonitions during the trial were sufficient to prevent any prejudice from the admission of evidence which was later excluded or not properly connected with the conspiracy.

It is contended that as there was only one conspiracy, it was error to indict the defendants on two counts and thereby to submit the case to the jury as though there were two offenses. It is conceded that there was only one conspiracy, but the District Attorney argues that if the unlawful agreement contemplates the commission of more than one offense against the United States, it is proper to plead each offense in a separate count. In view of our conclusion as to the second count, we need not reach the question as

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4. Typical of such care by the trial court is the following statement to the jury:

"* * * I think perhaps I should say to the jury at this point, however, because I anticipate that this same question will arise from time to time, that you should have in mind that the charge in the indictment with which we are concerned in this case has to do only with an alleged conspiracy pertaining to liquor. That is, an alleged conspiracy to import liquor into the State of Oklahoma in violation of federal law, and to sell both at wholesale and retail without paying the special tax as required by federal law. The indictment does not contain any accusation or any charge with reference to gambling, or any other vice; and any testimony that you hear that pertains to gambling or any other vice—and I might mention the other thing I have in mind because I think we will get to that shortly—and that is prostitution—any evidence presented in that connection can only be considered, if it is in some way connected up with the alleged conspiracy to violate the liquor law. Evidence pertaining to gambling and other forms of vice is not to be considered only except and in so far as it may hereafter be connected up and shown to have some relation to the charge of the conspiracy to violate the liquor law."

to whether a single conspiracy to commit acts in violation of several penal statutes may be pleaded in separate counts and punished as one or several conspiracies. See *Braverman* v. *United States,* 317 U. S. 49;[5] *Williams* v. *United States,* 5 Cir., 238 F. 2d 215, cert. denied 352 U. S. 1024.

We find no merit in the assignment of error that the court did not adequately instruct the jury on the basic elements of a conspiracy. The jury was told that the elements of a conspiracy were the willful conspiring together of two or more persons to commit offenses against the United States; that the offense was complete if it appeared from the evidence that any one of the overt acts alleged in the indictment was committed for the purpose of effecting the objects of the conspiracy. We have considered the instructions as a whole, and they cover the applicable law of conspiracy. The duty of the trial court is to instruct on the general principles of the law of the case. It is not required to include in its instructions what is not the law of the case nor to give instructions "in the language offered by the litigants or to outline all possible factual situations which

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5. In the Braverman case the question was whether a single conspiracy to commit acts in violation of several penal statutes should be punished as one or several conspiracies. The indictment was in seven counts. It was held that the precise nature and extent of the conspiracy must be determined by the agreement which embraces and defines its objects. The one agreement cannot be taken to be several agreements. The court did not criticize the indictment, but held that the sentence could be for one offense, and returned the case for resentencing. It appears quite clear that the indictment in the case at bar contained more than one count because some of the objects of the conspiracy constitute felonies and other misdemeanors. The sentences of all appellants are for misdemeanors only.

would fail to show one's connection with a conspiracy." *Butler* v. *United States,* 10 Cir., *supra,* p. 564. See also *Holt* v. *United States,* 218 U. S. 245.

We have reviewed this voluminous record in detail and find that the trial court conducted a rather difficult case with extreme care to protect all of the rights of the defendants. We find no error affecting any substantial rights of the defendants except as to T. Martin Edwards, John David Hood, and Don T. Gray.

The judgment is affirmed as to all defendants on the first count except the defendant Gray; judgment is reversed as to the defendant Gray and as to the defendants T. Martin Edwards and John David Hood on the second count only.

Judgment.

First Day, January Term, Monday, January 6th 1958.

Before Honorable Sam G. Bratton, Chief Judge, and Honorable John C. Pickett and Honorable David T. Lewis, Circuit Judges.

These causes came on to be heard on the transcript of record from the United States District Court for the Northern District of Oklahoma and were argued by counsel.

On consideration whereof, it is ordered and adjudged by this court that the judgments and sentences of the said district court are affirmed as to all the defendants on the first count except the defendant, Don Gray; and the judgments and sentences are reversed as to the defendant, Don Gray, and as to the defendants, T. Martin Edwards and John David Hood, on the second count only.

It is further ordered by this court that the defendants except the defendant, Don Gray, surrender themselves to the custody of the United States Marshal for the Northern District of Oklahoma in execution of the judgments and sentences imposed upon them, within ten days from and after the date of the filing of the mandate of this court in said district court.

Constitutional and Statutory Provisions Involved:

Amendment V, The Constitution of The United States of America (Constitution of the United States of America, Revised and Annotated, 1952, Legislative Reference Service, Library of Congress, p. 40):

> "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, *nor be deprived of life, liberty, or property, without due process of law;* nor shall private property be taken for public use without just compensation." (Italics ours.)

Amendment VI, The Constitution of the United States of America (Constitution of United States of America, Revised and Annotated, 1952, Legislative Reference Service, Library of Congress, p. 41):

> "*In all criminal prosecutions, the accused shall*

enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, *and to be informed of the nature and cause of the accusation;* to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense." (Italics ours.)

Amendment X, The Constitution of The United States of America (Constitution of the United States of America, Revised and Annotated, 1952 Legislative Reference Service, Library of Congress, p. 41):

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Title 18, United States Code, Section 371 (U. S. C., 1952 Ed., Vol. 2, p. 2354):

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor."

Title 18, United States Code, Section 1262 (U. S. C., 1952 Ed., Vol. 2, p. 2428):

"Whoever imports, brings, or transports any intoxicating liquor into any State, Territory, District, or Possession in which all sales, except for scientific, sacramental, medicinal, or mechanical purposes, of intoxicating liquor containing more than 4 per centum of alcohol by volume or 3.2 per centum of alcohol by weight are prohibited, otherwise than in the course of continuous interstate transportation through such State, Territory, District, or Possession or attempts so to do, or assists in so doing,

"Shall (1) If such liquor is not accompanied by such permits, or licenses therefor as may be required by the laws of such State, Territory, District, or Possession or (2) if all importation, bringing, or transportation of intoxicating liquor into such State, Territory, District, or Possession is prohibited by the laws thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"In the enforcement of this section, the definition of intoxicating liquor contained in the laws of the respective States, Territories, Districts, or Possessions shall be applied, but only to the extent that sales of such intoxicating liquor (except for scientific, sacramental, medicinal, and mechanical purposes) are prohibited therein."

Title 26, United States Code, Section 5691, Internal Revenue Code of 1954, Section 5691 (U. S. C., 1952 Ed., Supp. IV, p. 1884):

"Any person who shall carry on the business of a brewer, rectifier, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer

in beer, or manufacturer of stills, and willfully fails to pay the special tax as required by law, shall, for every such offense, be fined not more than $5,000, and imprisoned not more than 2 years. All distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in any building, room, yard, or enclosure connected therewith and used with or constituting a part of the premises, shall be forfeited to the United States."

Instructions of the Trial Court (R. 949-952, 952-958):

"*The indictment* returned by the grand jury in this case *consists of two counts.* In the first count the charge is made that the defendants, from on or about January 1, 1948, until on or about February 21, 1957 * * * unlawfully, wilfully, and knowingly conspired and agreed with each other and with twenty-one other named persons not on trial, and other persons whose names were unknown to the grand jury, to commit offenses against the United States by wilfully importing intoxicating liquors into the State of Oklahoma.

"It is further charged that the defendants committed some thirty overt acts, to effect the objects and purposes of the conspiracy, * * *

"Now *Count 2 contains essentially the same charge* of an unlawful conspiracy entered into by the defendants and others, except that it is alleged that the purpose of the conspiracy was to commit offenses against the United States by carrying on the business of wholesale and retail liquor dealers and wilfully failing to pay the special taxes required by the Internal Revenue laws

of the United States. It is further asserted in Count 2 that the same thirty overt acts described *** in Count 1 were committed by the defendants in pursuance of the conspiracy and to carry out the objects and purposes thereof.

"*While the indictment is separated into two counts, it alleges only one conspiracy* to commit offenses against the United States. Count 1 charging that *it was part of the conspiracy* that the defendants would wilfully import intoxicating liquors into Oklahoma, and Count 2 charging that *it was part of the conspiracy* that defendants would engage in the business of wholesale and retail liquor dealers, and wilfully failed to pay the special taxes required by the Federal law.

• • • • • • • •

"* * * In many respects, the matters involved in the two counts of the indictment are the same. This is a matter for the Court to consider in fixing the punishment in the event there should be a verdict of guilty, but it is not for the jury to consider in determining guilt or innocence.

• • • • • • • •

"As you have been heretofore advised by the Court, the evidence presented by the Government is not deemed to be sufficient to meet the required degree of proof that the defendants, or any of them, entered into the alleged conspiracy on or about January 1, 1948. The evidence does not tend to prove the existence of the alleged conspiracy until about March 1956.

• • • • • • • •

"If you find from the evidence by the required degree of proof that *the conspiracy alleged in Count 1* was wilfully entered into by the defendants on or about

March 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the objects of the conspiracy, and after the inception thereof, then you should find all defendants who were members of *the* conspiracy *guilty as charged in Count 1* of the indictment.

"If you find from the evidence by the required degree of proof that *the conspiracy alleged in Count 2* was wilfully entered into by the defendants on or about March 1956, and that any of the defendants committed any one or more of the overt acts alleged in the indictment in furtherance of the conspiracy, and after the inception thereof, then you should find all defendants who were members of *the* conspiracy *guilty as charged in Count 2* of the indictment.

"Any person who imports * * * any intoxicating liquor into the State of Oklahoma otherwise than in the course of continuous interstate transportation through the state, or attempts so to do, or assists in so doing, commits an offense against the United States.

"You have been repeatedly * * * advised * * * that this law was not in effect during an approximate four-year period from April 1947 to April 5, 1951.

"One who engages in the business of a wholesale liquor dealer is required by Federal law to pay a special tax. *A wholesale dealer is required to file monthly what is known as a form 52-A,* showing whom he purchased liquor from, *and a form 52-B,* showing the names of the persons to whom he sold liquor in wholesale quantities during the previous month.

* * * * * * * *

"The evidence presented by the Government—now I come to the exception with reference to this evidence, in the record, *prior to March 1956*: The evidence presented by the Government pertaining to the *importa-*

tion of liquor from Missouri into Oklahoma *during the period from April 5, 1951 to on or about March 1956,* the date upon which the defendants are charged with having entered into the unlawful conspiracy, *and the evidence pertaining to the carrying on of a liquor business* by some of the defendants during the same period, *and wilfully failing to pay the special tax* required by Federal law, *may properly be considered by you* but only for a limited purpose. *It may be considered* only in connection with the question of *an intent* of the defendants in determining whether the defendants intentionally and wilfully *conspired* to commit the offenses against the United States *during the period from about March 1956 to on or about February 21st, 1957.*

"You are instructed that the police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation Act or the Internal Revenue laws of the United States. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose of aiding in the enforcement of Federal laws pertaining to the transportation and sale of liquor would not be sufficient to prove a conspiracy upon the part of such officers to violate those laws. But, if such police officers enter into an agreement to aid and assist others *in carrying on the liquor business* and knowingly and intentionally cooperate with others in the importation of liquor into Oklahoma in violation of Federal law, or aid and assist others in carrying on the business of either a wholesale or a retail liquor dealer, and wilfully failing to pay the special tax as required by Federal law, then such police officers do commit an offense against the United States.

• • • • • • • •

"* * * As to each defendant on trial you may find him *guilty on both counts* of the indictment, *not guilty on both counts* of the indictment, *or guilty on one count and not guilty on the other count of the indictment.*" (Italics ours.)

Additional Instructions of the Trial Court.

(Upon request of the Jury after one hour and twenty-three minutes of deliberations, R. 969-971):

"The Court: I think * * * I can make it a little clearer. * * *

"I told you in the instructions that *there is only one conspiracy* or one alleged conspiracy involved in the case. *But it is divided into two counts* and I think I might very well explain the reason for that * * *.

"The *first count* charges that it was the *object* of the conspiracy that the defendants would violate the Federal law pertaining to * * * *importation* of intoxicating liquor into the State of Oklahoma. *Then the second count charges the same conspiracy* but that *a part of the conspiracy* was to also violate the Federal law pertaining to the requirement that persons who are engaged in the business of wholesale and (retail) liquor dealers must pay a special tax, the charge being that the defendants *as a part of the conspiracy, and as an object of the conspiracy* intended to *wilfully fail to pay the special tax* required of wholesale and retail liquor dealers.

"Now, no doubt it has occurred to you, *why divide it into two counts if it is only one conspiracy?* The reason for it is this: The Federal Act which prohibits * * * *importation* of liquor into the State of Oklahoma under certain circumstances *is what is known as a misdemeanor.* The Federal law with reference to *wilfully failing*

to pay the special tax required of a retail or a wholesale liquor dealer *is what is known as a felony.* So that the penalty—the *maximum penalty* that may be imposed under the Federal law *for a conspiracy to violate the Federal law which is a misdemeanor is less than the penalty* that may be imposed *where there is a conspiracy to commit an offense by violating a Federal law which is a felony.*

"Now, then *if we submitted this case on only one count* to violate both the misdemeanor and the felony statute *and there should be a verdict of guilty* as to any one defendant *there would be no way of knowing whether he was found guilty of the conspiring to violate the statute which was a misdemeanor or guilty of violating the statute which is a felony, or whether he is guilty of violating both.* So in order that the verdict will reflect the conclusion reached by the jury with respect to the alleged conspiracy to violate particular Federal statutes it is *divided* into two counts. *One conspiracy, but as to the first count it is alleged that the object is to violate the misdemeanor statute, whereas in the second count it is alleged that the object*—one of the objects *was to violate the felony statute.*

* * * * * * * *

"An offense that is known as a *misdemeanor* is one that is—where the maximum punishment provided by law does not exceed *one year.* And if the punishment provided by law for the commission of a particular offense provides for a maximum penalty that may be imposed of in excess of a year then it is known as a felony. So, to be specific, the maximum penalty that may be imposed for a conspiracy to violate the transportation statute is twelve months or a year, * * * and I believe $1,000 fine.

* * * * * * * *

"The Court: One year and $1,000 fine, whereas a conspiracy to violate the statute with reference to wilful failure to pay the tax, the special tax on wholesale and retail liquor dealers calls for a penalty in excess of a year * * *." (Italics ours.)

Form of Verdict Submitted as to Each Defendant (R. 57):

"We, the Jury, find the defendant Jay L. Jones is ....., as charged in the first count of the indictment.

"We, further find the defendant Jay L. Jones ....., as charged in the second count of the indictment.

....,

Foreman."

Office - Supreme Court, U.S.
FILED
MAR 19 1958
JOHN T. FEY, Clerk

No. 788

In the Supreme Court of the United States

OCTOBER TERM, 1957

JAY L. JONES, PAUL J. LIVINGSTON, JACK GOTT, LEO BRANTLEY JACKSON, JOHNNY E. COLE, JAMES RICHARD HARP, WILLIAM THOMAS PETERSON, OLIVER B. STEPHENS, JOHN E. MCAFEE, T. MARTIN EDWARDS, ELMER LEE OAKLEY, JOHN DAVID HOOD, F. LEE JOHNSON, PAUL DONLEY RUCKER, AND FRED A. GRIFFING, PETITIONERS,

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

J. LEE RANKIN,
Solicitor General,
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OPINION BELOW

The opinion of the Court of Appeals (Pet. App. 45-60; R. 3-24) has not yet been reported.

JURISDICTION

The judgment of the Court of Appeals was entered on January 6, 1958 (Pet. App. 60-61; R. 25). A petition for rehearing (R. 26-51) was denied on January 21, 1958 (R. 52). The petition for a writ of

certiorari was filed on February 17, 1958. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether the evidence established a conspiracy to violate federal law prohibiting importation of liquor into a dry state.

2. Whether the trial judge properly admitted as bearing on intent evidence of operations prior to the commencement of the conspiracy.

3. Whether the introduction of evidence that the conspiracy included control of gambling and prostitution constituted prejudicial error, notwithstanding the cautionary instructions given by the trial court.

4. Whether it was proper, in view of the separate punishments applicable, to separate into two counts the charges of conspiracy to commit a felony and conspiracy to commit a misdemeanor.

STATUTES INVOLVED

The pertinent statutes provide in part as follows:

18 U.S.C. 371.

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.
>
> If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

18 U.S.C. 1262.

Whoever imports, brings, or transports any intoxicating liquor into any State, Territory, District, or Possession in which all sales, except for scientific, sacramental, medicinal, or mechanical purposes, of intoxicating liquor containing more than 4 per centum of alcohol by volume or 3.2 per centum of alcohol by weight are prohibited, otherwise than in the course of continuous interstate transportation through such State, Territory, District, or Possession or attempts so to do, or assists in so doing.

Shall (1) If such liquor is not accompanied by such permits, or licenses therefor as may be rerequired by the laws of such State, Territory, District, or Possession or (2) if all importation, bringing, or transportation of intoxicating liquor into such State, Territory, District, or Possesssion is prohibited by the laws thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

* * * * *

STATEMENT

An indictment (Tr. 13-19) [1] filed in the United States District Court for the Northern District of Oklahoma in March, 1957, charged petitioners and others with conspiring, from 1948 to 1957, (count 1) to import liquor illegally into Oklahoma in violation of 18 U.S.C. 1262 (creating a misdemeanor), and (count 2) to violate federal alcohol revenue laws (felony offenses). The fifteen petitioners were found guilty on count 1

[1] The designation "Tr." refers to the transcript of the trial proceedings.

under instructions limiting the conspiracy to the period from March, 1956, to February, 1957 (Tr. 957, 973-976). Each was sentenced on that count to imprisonment for one year and a fine of $1,000.[2]

The evidence may be summarized as follows:

(1) About February, 1956, petitioner McAfee told one Hirrlinger that he could make a deal with petitioner Jay L. Jones, who was then running for office as police and fire commissioner of Tulsa, Oklahoma. He said it would cost about four to five thousand dollars to get Jay L. Jones elected (Tr. 557-558). In March, 1956, the two met with Jones and discussed the deal they could arrange if they could get Jones elected. Hirrlinger thought that they might be able to obtain the money but said he would have to talk to co-conspirator Bill Edwards (Tr. 558-559), a wholesale liquor dealer in Tulsa (Tr. 317-319). Hirrlinger talked to Bill Edwards shortly thereafter about getting campaign money (Tr. 560). Hirrlinger also talked separately with Jones and gave him some money with the understanding that if Jones were elected he would furnish police protection (Tr. 569-570).

Later in March, Hirrlinger met with Jones, McAfee and Edwards. Hirrlinger and Edwards gave Jones a total of about $700. It was agreed that Edwards would be in control of all the whiskey business in Tulsa, and that McAfee and Hirrlinger were to work out arrangements for the protection of gambling and possibly

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[2] Edwards and Hood were also convicted on the second count but that conviction was reversed on appeal. The Court of Appeals also reversed as to Gray, a Missouri liquor dealer who was a source of supply.

prostitution (Tr. 561-562). Jones stated that he had not made any money in the first administration and that he intended to make some money this time (Tr. 537).

Bill Edwards collected the $700 for Jones' campaign from petitioner Johnson and from the three Massey brothers, all of whom were liquor dealers in Tulsa. It was agreed that their contribution would cover future protection upon Jones' election (Tr. 533-535).

Jones was elected Police Commissioner, petitioner Livingston was appointed Chief of Police, and petitioner Gott became the head of the vice squad. In May, 1956, Bill Edwards met secretly with Hirrlinger and petitioners Jones, Livingston, Gott and McAfee. Petitioner Livingston directed the meeting. It was then agreed that Edwards was to have charge of the whiskey operation, McAfee of the gambling operation, and Hirrlinger of the prostitution activities. They agreed as to how protection money was to be divided. It was also agreed that Bill Edwards was to contact the whiskey dealers and inform them that if they paid the necessary protection money they would not be picked up by the police; but that if they would not cooperate they would be reported to the vice squad. To carry out this plan, Edwards was to give the police a description of the cars and license numbers of whiskey dealers who paid for protection (Tr. 458, 460-462, 530). At that time, the parties also agreed as to the composition of the vice squad. Petitioners Stephens, Peterson, Cole, Jackson and Harp were members of the vice squad (Gov. Ex. 3, Tr. 160, 162, 532). The raiding vice squad members were told that if they were to stay on

the squad they would have to protect certain whiskey dealers from raids (Tr. 583-585). Members of the vice squad who did not acquiesce were transferred (Tr. 585). One of the officers who refused to cooperate complained to petitioner Gott about his transfer but nothing was done about it (Tr. 585-586).

Early in June, 1956, another meeting was attended by petitioners Jones, Livingston, Gott and McAfee and co-conspirators Hirrlinger and Edwards. Livingston insisted that Edwards' brother, petitioner T. Martin Edwards, come into the deal. Bill Edwards was opposed to this arrangement and his wishes prevailed. Thereafter, Livingston several times insisted that Bill Edwards let his brother Martin participate but Bill Edwards continued to object (Tr. 463, 465-466).

During the period that Bill Edwards was in charge of the whiskey operation, he collected several hundred dollars either from whiskey dealers themselves or from those who picked up money from the whiskey dealers. Among those paying money were petitioners Griffing, Elmer Oakley, Lee Johnson, John Hood and Paul Rucker. Edwards turned over the money which he collected to petitioner Gott. He also exercised authority to determine which liquor dealers would be allowed to participate in the arrangements for protection and which ones would be left out (Tr. 471-478). He assured those who paid that they were to receive absolute protection from the city raiding squad (Tr. 479).

Early in July, 1956, Bill Edwards, Hirrlinger and Gott met at Edwards' home to distribute protection money which had been collected up to that point (Tr. 479-480). In the latter part of July, 1956, Livingston told Bill Edwards that he was returning Edwards' pay-

ment of $300 because there had been too much talking and he could not get the job done. Thereafter, petitioner Gott, acting upon orders, telephoned Bill Edwards and told him that the deal was completely off and that Bill Edwards was no longer in charge of the whiskey operation (Tr. 470-471). At that time, Bill's brother, petitioner T. Martin Edwards, was substituted for Bill in the conspiracy (Tr. 707) and payments continued (Tr. 725-727, 745-746, 752-754, 766). T. Martin Edwards was also a liquor wholesaler (Tr. 335-339, 687-688, 720-722).

In December, 1956, federal revenue officers raided several of the whiskey businesses in Tulsa, Oklahoma, without the knowledge or cooperation of the local police (Tr. 784-785). A grand jury investigation followed.

On the general theory of the case the judge charged as follows (Tr. 957-958):

> You are instructed that the police officers of the City of Tulsa, Oklahoma, are not under any duty by virtue of their positions to enforce the Federal Liquor Importation Act or the Internal Revenue laws of the United States. The mere failure of police officers of the City of Tulsa to make arrests or raids for the purpose of aiding in the enforcement of Federal laws pertaining to the transportation and sale of liquor would not be sufficient to prove a conspiracy upon the part of such officers to violate those laws. But, if such police officers enter into an agreement to aid and assist others in carrying on the liquor business and knowingly and intentionally cooperate with others in the importation of liquor into Oklahoma in violation of Federal law, or aid and assist others in carrying

on the business of either a wholesale or a retail liquor dealer, and wilfully failing to pay the special tax as required by Federal law, then such police officers do commit an offense against the United States.

The objects of a conspiracy may be numerous. Some may involve violation only of State law and some may even be innocent—but if one of such objects be to violate a criminal law of the United States, the case falls within the condemnation of the Federal conspiracy statute.

(2). On the Government's theory that the conspiracy from March 1956 to 1957 was part of a larger conspiracy going back to 1949, testimony was offered at the trial as to operations of the liquor business in Oklahoma prior to 1956. It was shown, for example, that a reporter for one of the local newspapers obtained money by promising not to publicize bootlegging activities (Tr. 164-197, 202, 212, 223, 232); and that members of the police department, including some of the present petitioners, had been collecting tribute from liquor dealers (Tr. 218-231, 372-387). There was also testimony that Don Gray, a Missouri liquor dealer whose conviction was reversed by the Court of Appeals in this case, had been selling liquor for importation into Oklahoma from 1951 to 1956 (Tr. 257-298; 302-311). Bill Edwards testified that he started trading with Gray in 1953 and did so continuously until November, 1956, and that he told Gray he was bringing the liquor into Oklahoma and reselling it to other liquor dealers (Tr. 317-319).

At the close of the Government's case, the judge explained to the jury at considerable length that he had

concluded that the evidence failed to make out a case of conspiracy prior to 1956 (Tr. 865-869). He told the jury to disregard testimony concerning collections from bootleggers prior to that date (Tr .865). He also directed judgment of acquittal as to reporter Bulloch, explaining why he thought the evidence as to Bulloch's activities were not related to the conspiracy charged in the indictment (Tr. 867-869). He further instructed the jury that evidence pertaining to transactions prior to March, 1956, was not material to the conspiracy and should not be considered, except that evidence as to unlawful importation of whiskey from May, 1951 to March, 1956 could be considered as bearing on the intent of the parties and as showing a course of conduct on the part of Gray and the other defendants to whom the evidence related (Tr. 866).

Again, in his final charge, the judge instructed the jury to disregard the evidence as to events prior to March, 1956 (Tr. 951), with the exception noted above (Tr. 957):

> The evidence presented by the Government—now I come to the exception with reference to this evidence, in the record, prior to March 1956: The evidence presented by the Government pertaining to the importation of liquor from Missouri into Oklahoma during the period from April 5, 1951, to on or about March 1956, the date upon which the defendants are charged with having entered into the unlawful conspiracy, and the evidence pertaining to the carrying on of a liquor business by some of the defendants during the same period, and wilfully failing to pay the special tax required by Federal law, may properly be considered by you but only for a limited purpose. It may be consid-

> ered only in connection with the question of an intent of the defendants in determining whether the defendants intentionally and wilfully conspired to commit offenses against the United States during the period from about March 1956 to on or about February 21st, 1957.

(3). During the trial, evidence was admitted as to gambling and prostitution activities which were carried on under protection of the Tulsa city police (Tr. 166-167, 437-438, 626-670). When objection was offered, the court said that the evidence would have to be connected up with the unlawful conspiracy to engage in the whiskey business, and that, if not so connected, he would instruct the jury to disregard it (Tr. 165, 166-167). Repeatedly during the proceedings, the judge stated that evidence as to gambling and vice was not to be considered unless connected up with the charge of conspiracy to violate the liquor laws (Tr. 438, 626; see also R. 156-157, 636, 662).

When, at the close of the government's case, the judge told the jury that he was limiting the charge to the period after March, 1956, he also said (Tr. 867):

> In that connection, I want to say to you, in order to emphasize it, that the evidence pertaining to the possible exploitation of prostitution here in the City of Tulsa should not be considered by the jury. It has no probative value—it has no bearing, is not material to any of the issues remaining in the case to be submitted to the jury, and should be completely disregarded in arriving at your verdict.

In explaining why he was directing a verdict of acquittal as to Bulloch, the judge mentioned that he con-

sidered some of the evidence more related to gambling than to the whiskey business (Tr. 867).

The judge did not again mention this subject in his final instructions but, when this was called to his attention, he pointed out that no request had been made; and that the only reason for the omission was that he felt he had placed great emphasis on the matter during the trial. He said that he would give a further instruction if requested, but no request was made (Tr. 965-967).

ARGUMENT

1. The argument that the evidence did not establish a conspiracy to violate federal law, but merely a conspiracy to sell and buy protection from state prosecution (Pet. 31-37) is best answered by the portion of the judge's charge quoted *supra,* pp 7-8. As there pointed out, the objects of a conspiracy may be numerous, and some may involve violation of state law, but if one of the objects is to violate a criminal law of the United States, the case falls within the condemnation of the federal conspiracy statute.

Here, in order to engage in the liquor business in Oklahoma, a dry state, bootleggers had to get their liquor from out of the state. The evidence was clear that many liquor dealers, Bill Edwards in particular, were getting their liquor from Missouri. Thus, protection of liquor dealers in their business necessarily included protection of that part of the business which involved procurement of supplies from without the state. As the evidence showed (particularly the evidence that the police were furnished with automobile and license descriptions), the conspirators carefully addressed themselves to the matter of avoiding inter-

ference with vehicles engaged in transportation of the contraband liquor.

It is settled, of course, that no formal agreement is essential to the formation of a conspiracy; a mutual implied understanding is sufficient. The agreement is generally a matter of inference deduced from acts, conduct and attendant circumstances. *Glasser* v. *United States,* 315 U.S. 60; *United States* v. *Manton,* 107 F. 2d 834, 839 (C.A. 2), certiorari denied, 309 U.S. 664; *Telman* v. *United States,* 67 F. 2d 716, 717 (C.A. 10), certiorari denied, 292 U.S. 650.

2. Precisely for the reason that it was necessary to prove that the conspiracy embraced an agreement to import liquor into the state, the court properly permitted evidence of pre-1956 importations of liquor as bearing on the question of intent. To define the scope of the conspiracy, it was important to show that it was generally known and understood that engaging in the liquor business in Oklahoma meant importing liquor from out of the state, or buying from a wholesaler who had imported it. The trial court properly exercised its discretion in permitting this evidence bearing on the issue of intent. See *Glasser* v. *United States,* 315 U.S. 60, 81-82.

3. As to the evidence on gambling and prostitution, the judge was so careful throughout the trial in giving cautionary instructions (*supra,* pp. 10-11) that the claim of prejudice is without foundation. Our system assumes that the jury will follow instructions. *Delli Paoli* v. *United States,* 352 U. S. 232, 242; *Opper* v. *United States,* 348 U. S. 84, 95.

Actually the judge was probably more cautious than was required. The conspiracy with respect to liquor

was a part of a broader conspiracy embracing prostitution and gambling. It would therefore tend to prove the existence of the liquor conspiracy to show that a similar agreement covering these other activities was simultaneously operating.

4. Although no one stands convicted for the aspect of the conspiracy charged in count 2, *i. e.*, to commit felony violations, petitioners endeavor to find prejudice in the fact that they were charged in two counts, though only one conspiracy was involved. However, the judge carefully charged that the two counts involved only one conspiracy and explained that the separation was grounded in the fact that the present conspiracy statute provides a lesser punishment for conspiracy to commit a misdemeanor than for conspiracy to commit a felony (Tr. 969-971).

The claim that it was improper to avoid the problem which might have arisen had there been a single count charging a conspiracy to commit various offenses, *i. e.*, whether a general jury verdict would reflect the conclusion that there was a conspiracy to commit a misdemeanor or a conspiracy to commit a felony, has no substance. An analogy is provided by cases holding that an indictment may, in separate counts, charge different means of committing one offense even though only one punishment may be imposed. *Dealy* v. *United States,* 152 U. S. 539, 542; *Barnes* v. *United States,* 142 F. 2d 648 (C. A. 9). And see *Haupt* v. *United States,* 330 U. S. 631, 641, fn. 1. In no event do petitioners have any basis for suggesting possible prejudice. The only offense of which they stand convicted is the lesser offense of conspiracy to commit a misdemeanor.

CONCLUSION

It is respectfully submitted that the petition for a writ of certiorari should be denied.

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MARCH 1958.

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